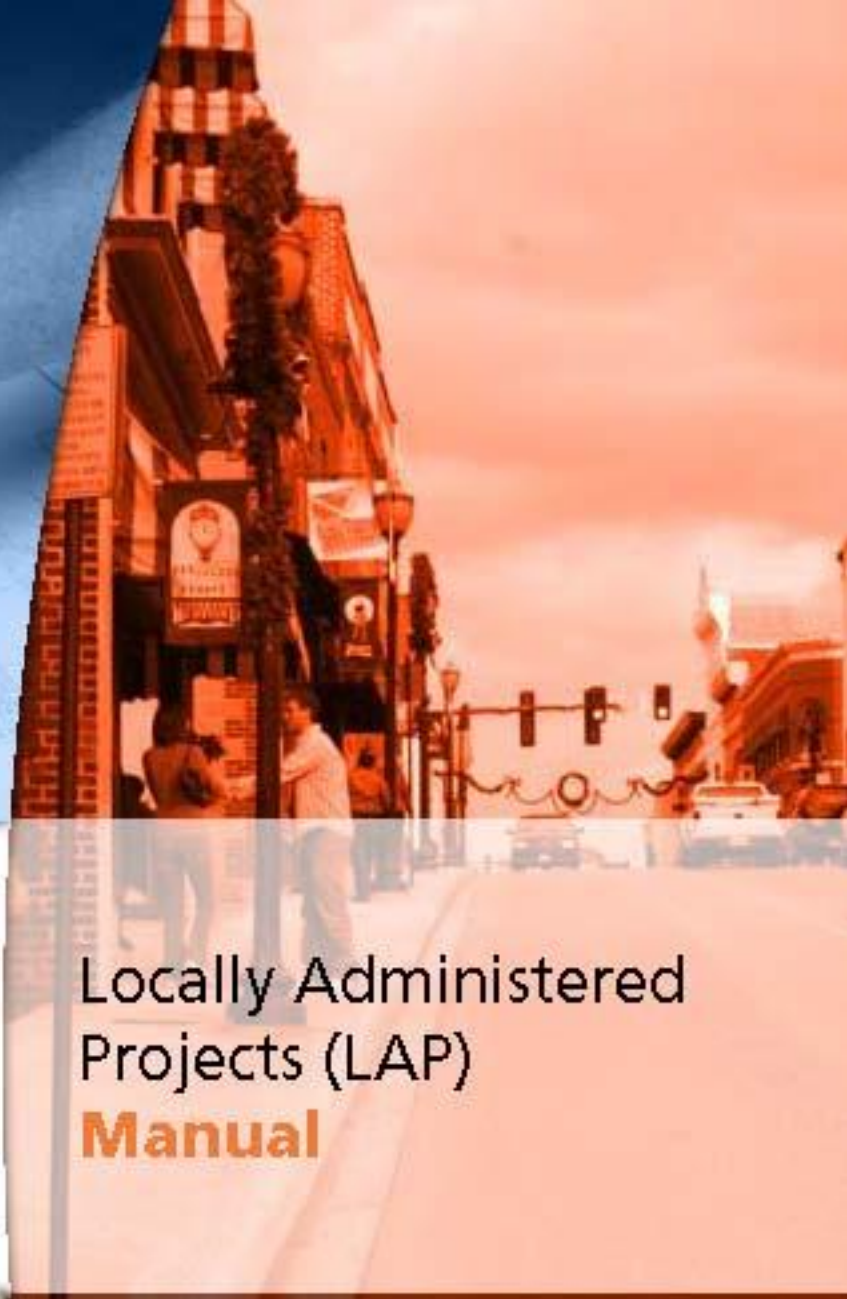

VDOT
Virginia Department of Transportation

Locally Administered Projects (LAP) Manual

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INTRODUCTION

Preface

Locally Administered Projects (LAP) Manual

Purpose

This Locally Administered Projects manual has been written to assist the Local Public Agency (LPA) in the administration of local-let transportation projects, as well as to provide consistency on a statewide basis. It also provides guidance for VDOT staff responsible for supporting these projects.

The manual describes the processes, procedures, documents, authorizations, approvals and certifications that are required in order to receive federal aid and/or state funds for many types of local transportation projects. The information has been compiled from numerous sources and is intended to give a broad overview of local-let activities. This manual should not be used as a substitute for federal and state laws, statutes and regulations for project administration activities using federal funds. Rather, this document is intended to foster the expeditious and lawful delivery of local projects.

While the manual provides detailed guidance for most parts of the project development process, it is not a replacement for regular contact with VDOT staff. Please work closely with the staff of the appropriate VDOT district office for your project.

Organization of the manual

Definitions and acronyms

This section provides a list of frequently used terms and definitions found throughout the manual. Terms are defined are they pertain to this manual.

Symbols

Occasionally, symbols are used – at times with bold or italicized font – in this manual to highlight important information. Generally, the following three symbols are used:

Required submission

Important information

Must be kept on file

The manual is divided into four parts. Each part contains several chapters which describe the requirements for completing specific project development activities.

Part 1 is focused on overall program development that addresses roles and responsibilities, qualifications, and project initiation. This section details requirements for state-funded projects and delineates differences in certain special programs.

Part one will be helpful to LPAs in understanding VDOT's approach to locally administered projects.

Part one appendices include:

- a flow chart summarizing major activities required to develop a transportation project.
- a federal-aid checklist of tasks necessary to complete various project phases.
- a Local Government Certification for state-aid projects.

Part 2 is focused on project management and provides guidance for project development and construction. This part is organized to reflect the flow of a project from the development of the project administration agreement through construction and project closeout. In each chapter, there is a general discussion section which gives background information, applicability, regulatory requirements and the rationale for the requirements. This is followed by a detailed description of procedures, documents and approvals. In most cases,

general discussion appears at the beginning of each chapter, while details of the process appear later in the chapters. Back-up data appears in appendixes to each chapter.

Part 2 will be helpful to LPAs for day to day project development.

Part 3 addresses standards and practices for functional areas that cut across phases of project delivery including: civil rights, environmental, right of way, structure and bridge, and financial management. Part 3 contains detailed information for each of the functional areas and will be helpful to LPAs in identifying specific requirements.

Generally, in parts 2 and 3 of the manual, the chapters follow this outline:

- *Introduction/Summary/Applicability*
- *Processes/Procedures*
- *Table of Key Submittals/Requirements*

Appendices include chapter specific information

Part 4 provides a list of required submittals for federally funded projects and contains samples of properly completed submittals**.**

Effective Date

This document is intended to supersede and replace all previous versions of the guide for the local administration of VDOT projects. All projects with an advertisement date after July 1, 2009, will be developed in accordance with this manual. If provisions found in this manual place an undue hardship on projects scheduled for advertisement before September 30, 2009, VDOT may allow the locality to use guidance from the previous Guide.

Update Process

The LAP Manual will be periodically updated to reflect changes in funding programs, policy, federal and state requirements and statutory changes. When changes are necessary, VDOT posts the updated pages on its Web site, with the latest revision dates listed in the Table of Contents.

Recommending Changes and Updates

LAD staff places a high value on users' suggestions and recommendations for improvement of this manual. Each suggestion will be thoroughly evaluated and referred to the division that is responsible for the chapter or topic where an update has been suggested or when a general update is being considered. Divisions are responsible for preparing necessary updates and they are reviewed by LAD prior to publication.

LAD staff will evaluate and prioritize the sequencing of updates to the manual.

FHWA Coordination

This manual is a fundamental part of VDOT's continued and effective relationship with FHWA for the delivery of federally funded, locally administered projects. The LAP manual was reviewed and approved by the FHWA Virginia Division as the primary source of guidance for locally administered projects prior to publication.

As the LAP manual is a federally approved document, LAD must coordinate changes and updates to the manual with the FHWA Virginia Division. The level of coordination and approval will vary based upon the type of modifications being made to the manual.

Substantive modifications will be reviewed and approved by FHWA prior to publication. Examples of substantive changes include: changes that result in delegation of approval authority, modification of project submittal requirements, or changes in required project documentation by a local participating agency, as

well as any changes in VDOT approval processes. Administrative or procedural modifications do not require FHWA concurrence prior to publication. Examples of administrative or procedural modifications include: changes to administrative procedures, revision of the *Standard Federal-aid Project Administration Agreement*, or changes in references to the CFR / USC, VDOT specifications or standards (**not** the specification or the standard itself).

Annually, VDOT will prepare a summary of all administrative or procedural changes made to the LAP Manual and will provide that summary to FHWA for their information.

Interpretations of LAP Manual Guidance

From time to time, it may become necessary to provide clarification or interpretation of the guidance provided in the LAP Manual. An interpretation may clarify a VDOT business practice, or be legal or statutory in nature, and should be directed to the Local Assistance Division. Such requests may come from localities or from VDOT staff. Local requests should be routed through the assigned VDOT Project Coordinator for resolution. The Local Assistance Division will coordinate, as deemed necessary, with the appropriate central office policy division to provide the necessary clarification.

It may also become necessary to “waive” certain business practices or procedures outlined in the LAP Manual. Only the Director or Assistant Director of the Local Assistance Division can approve any deviation or material change in interpretation from the procedures documented in the LAP Manual. LAD will consult, as deemed necessary, with the appropriate central office policy division to provide “waivers” from VDOT business practice or procedures. Deviations from federal or state law and regulation cannot be considered and such provisions will not be waived.

Note: Please refer to Chapter 12.2.4 for the process for **design exceptions and design waivers**.

INTRODUCTION

Definitions

Locally Administered Projects (LAP) Manual

Definitions and Acronyms

AASHTO - American Association of State Highway Transportation Officials

Acquisition – The process of obtaining right of way necessary to construct or support your project.

ACE - Area Construction Engineer, VDOT's field engineer that has the responsibility of determining that all construction and maintenance projects are being constructed in compliance with the plans and specifications

ADA - The Americans with Disabilities Act of 1990 which mandates sweeping changes in building codes, transportation, and hiring practices to prevent discrimination against persons with disabilities, not just in projects involving federal dollars, but all new public places, conveyances, and employers.

APPX A – Appendix A's detail each project's finances and any local matches and contributions. Each project agreement must have an Appx A associated with each UPC.

BCE – Blanket Categorical Exclusion - Blanket Categorical Exclusions (BCE's) are actions that require no further NEPA approval or documentation for the action.

BR - Federal Bridge Program

CAAA - The Clean Air Act Amendments of 1990 identify "mobile sources" (vehicles) as primary sources of pollution and call for stringent new requirements in metropolitan areas and states where attainment of National Ambient Air Quality Standards (NAAQS) is or could be a problem.

CADD - Computer Aided Design

Categorical Exclusion CE (NEPA) - Categorical exclusions are actions that do not individually or cumulatively have a significant effect on the environment. Once a categorical exclusion is approved for a project, environmental clearance requirements of the National Environment Policy Act (NEPA) have been satisfied.

Capital Improvement Plan - is a planning document that outlines a locality's long range capital improvement objectives and priorities and typically includes major investments in the locality's transportation, schools, and parks and recreation infrastructure.

CEDAR - Comprehensive Environmental Data and Reporting System, VDOT's environmental database

CEI - Construction Engineering & Inspection

Central Office - The headquarters office of the VDOT which is located at 1401 East Broad St., Richmond, VA 23219.

CFR - **Code of Federal Regulations** The codified administrative regulations of the federal government.

CMAQ - The Congestion Mitigation and Air Quality Program is a $6 billion funding program contained in Title I of ISTEA. Funds are provided for projects and activities which reduce congestion and improve air quality.

CMS - Congestion Management Systems require large metropolitan areas (200,000 population or more) and states to develop management plans which make new and existing transportation facilities more effective through the use of travel demand management and operational management strategies.

Coast Guard Permit - A permit issued by the Coast Guard for all structures in navigable waterways (Rivers and Harbors Act (33 USC9).

CTB - Commonwealth Transportation Board

Comprehensive Plan - The general, inclusive long-range statement of the future development of a community. The plan is typically a map accompanied by description and supplemented by policy statements that direct future capital improvements in an area.

Completion Letter - A letter from the Local Public Agency Project Manager notifying the construction contractor that a project is complete.

Construction - Those activities that are involved in the building of a new road facility or improvement of an existing facility to a higher geometric or structural standard or serve to increase the capacity or efficiency of an existing facility.

Consultant - A private individual, corporation or other business organization that may be selected to provide architectural, engineering, environmental, or other related technical services for a local agency project.

Consultant Service - Utilization of professional expertise external to an agency, on a contract basis, to perform a specific study, project, or task. Does not include personal-service contracts for routine, continuing, and necessary tasks

DBE - Disadvantaged business enterprise, a small business concern: (a) which is at least 51 percent owned by one or more socially and economically disadvantaged individuals, or, in the case of any publicly-owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and (b) whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DEIS - Draft Environmental Impact Statement, a document identifying a course of action, alternative actions, analysis of the environmental impacts of alternates considered and proposed mitigation of impacts. The DEIS is circulated to other agencies and the public for review and comment.

DPOR - Department of Professional and Occupational Regulation for the Commonwealth of Virginia.

Department of Transportation - The Department of Transportation of the Commonwealth of Virginia, also referred to as the Department, State, or VDOT.

Design Hearing - A public hearing to examine the design features of a proposed transportation facility.

District - A subdivision of the Department organized to administer the affairs of the Department for a specific geographical area and for the local agencies in that area.

Draft Environmental Impact Statement (DEIS) - A document identifying a course of action, alternative actions, analysis of the environmental impacts of alternates considered, and proposed mitigation of impacts. The DEIS is circulated to other agencies and the public for review and comment.

EA - Environmental Assessment, a document prepared for federally funded, permitted, or licensed projects, that are not categorical exclusions (CE) but do not appear to be of sufficient magnitude to require an EIS. The EA provides sufficient analysis and documentation to determine if a Finding of No Significant Impact (FONSI) can be adopted or if an EIS must be prepared.

EE – Engineer's Estimate

ECAD - External and Construction Audit Division of VDOT

EEO - Equal Employment Opportunity. A general term referring to all contract provisions relative to EEO.

Effective Authorization Date - This is the date after which work that is to be reimbursed with federal funds may begin. Any costs for work occurring prior to this date are not eligible for federal reimbursement.

EIS - Environmental Impact Statement, a detailed written statement of project environmental effects required by state and/or federal law. This term refers to either a Draft or Final Environmental Impact Statement, or both, depending on context.

Environmental Document - A term used for any document that identifies the social, economic, and environmental effects of a proposed action.

Fair Offer - An offer to acquire real property for just compensation, which is the approved appraisal of the property's fair market value.

FAR - Federal Acquisition Regulations

Federal-aid - As used in this manual, refers to Federal funds provided for the development of surface transportation and administered by the FHWA. It also

includes FHWA administered funds from previous acts frequently titled Highway Acts.

Federal Funds - Federal funds reflect the amount of federal funding available for a project. Depending on the type of federal program funding requested, the federal share may be different. For most programs (although there are exceptions), the federal share is 80 percent of the total eligible project costs. However, the total amount of federal funds received is subject to either the federal aid limit shown in the Statewide Transportation Improvement Program (STIP) or the limit established by the type of federal-aid program.

FEIS - Final Environmental Impact Statement is a document containing an evaluation of the course of action that an agency intends to follow. It contains the same information required for the DEIS, with appropriate revisions reflecting comments received from circulation of the DEIS and from public meetings.

FHWA - Federal Highway Administration; The Federal agency responsible for administering the Federal-aid Highway Program

FHWA Authorization - The action taken by FHWA when signing the Authorization / Agreement document or the Amendment / Modification document. This action obligates federal funds at the specified pro-rata share for the specific type of project costs identified on the Authorization / Agreement or Amendment / Modification.

Final Estimate - An estimate of the total cost of a project prepared after completion of the construction contract and used as the basis for final payment to the contractor.

FMV - Fair Market Value

FOIA - Freedom of Information Act

Force-Account Work - Construction work not covered in the contract documents and of a type not amenable to definition by a change order. Force-account reimbursement is used when it is difficult to provide adequate measurement or to estimate the cost of certain items of work. The contractor is reimbursed for the

cost of the work plus profit using established weighted wage rates, equipment-rental rates, and the invoice cost of materials.

HES - Hazard Elimination Safety Program

HMOF – The Highway Maintenance and Operating Fund provides for the VDOT's maintenance, operations and administrative needs

IFB - Invitation for Bids

LAD - Local Assistance Division – the VDOT division that sets policy for locally administered projects.

Lead Agency - A federal, state, or local agency taking primary responsibility for preparing an environmental document.

Liquidated Damages - Amounts of money to be assessed against a contractor for late completion. These amounts must be related to the actual damages suffered by the owner because of the late completion.

Local Match - That portion of a project's cost paid for with local agency funds.

Location Hearing - A public hearing to examine the location of a proposed transportation facility, also called corridor or route hearing.

LPA - Local Public Agency – a Virginia city, county, town or other local public agency; In many instances, this term is used loosely to include nonprofit organizations.

MOA - Memorandum of Agreement

MPO - Metropolitan Planning Organization is the agency designated by the Governor (or governors in multistate areas) to administer the federally required transportation planning in a metropolitan area. An MPO must be in place in every urbanized area over 50,000 population. The MPO is responsible for the long-range plans and the transportation improvement program. The official name for an MPO may also be Council of Governments, Planning Association, Planning Authority, Regional or Area Planning Council, Regional or Area Planning Commission.

MUTCD - Manual on Uniform Traffic Control Devices for Streets and Highways, USDOT and FHWA.

NEPA - National Environmental Policy Act

NHS - National Highway System

Nonparticipating Items - Items of project work that are not a part of the federal aid funding.

Notice of Intent - A federal notice, printed in the Federal Register, advising that an EIS will be prepared and considered for a proposal.

Obligation - An obligation is a commitment – the Federal government's promise to pay the Federal share of a project's eligible cost. This commitment occurs when the project is authorized by FHWA and the Authorization/Agreement or the Amendment/Modification is executed through FMIS. Obligation is a key step in financing. Obligated funds are considered "used," or set aside for that particular project, even before any cash is transferred.

Obligation Authority (OA) - Yearly, the United States Congress places a limitation on obligations that can take place during a certain federal fiscal year, regardless of the year in which federal funds were apportioned or allocated.

OJT - On the Job Training

OMB - Office of Management and Budget

PAA - Project Administration Agreement

Partial Acquisition - The taking of only a part of a property for public use under the power of eminent domain and for which just compensation must be paid, offsetting the damages and/or special benefits to the remaining property.

Phase - For the purposes of Federal-aid authorization, the development of a project is broken into stages or phases; Preliminary Engineering, Right of Way and Construction. Each of these phases must be individually authorized, usually at different times in the development of a project.

PCE - Programmatic Categorical Exclusion

PCES - Project Cost Estimating System

PDP – Project Development Process - The Project Development process guides VDOT's Preliminary Engineering. It establishes guidelines for increased involvement of all stakeholders in the project lifecycle, with the goals of improving project coordination and communication, and ultimately improving the quality of the design-construction process.

Plans, Specifications and Estimates Package (PS&E) - A packet of information needed to obtain Federal authorization prior to the advertisement of a project for construction bids. Its content shall include a copy of the project agreement (if not previously submitted), the Project Engineer's official cost estimate, a copy of the plans, the environmental consultation form, the right of way certification, and a copy of the project specifications. The estimate and plans must be signed and sealed by a professional engineer, and the number of copies will vary by VDOT district.

Preliminary Engineering (PE) - This phase includes all project initiation and development activities undertaken after its inclusion in the approved STIP through the completion of PS&E. It may include preliminary Right of Way engineering and investigations necessary to complete the environmental document.

Preliminary Environmental Inventory (PEI) - is the resulting document from SERP. It is used in development and design of the project in order to avoid or minimize potential environmental impacts early in the development phase.

Prequalified Contractor - The selected contractor is prequalified by VDOT for a specific work type through the submission of credentials. A list of prequalified contractors and prequalification work types is maintained on VDOT's website.

Prequalifying Prospective Bidders - A process by which a contracting agency in advance of considering, opening, or accepting bids, or in advance of issuing bid proposals, establishes limitations on amounts and types of work contractors are permitted to bid on and to have underway at one time.

Primary – A non-interstate road with a route number under 600 that is not maintained by a municipality.

Progress Billing - A request from a local agency or contractor to VDOT for state/federal reimbursement for work completed on a federal aid transportation project during a defined time period.

Progress Estimate - An estimate of the total amount of work completed by a contractor as of the estimate date listed by work item.

Project Manager -The person designated by a local agency to oversee development of a project.

Pro Rata Share - The percentage of eligible and authorized project costs paid by the Federal government. With a few exceptions, the Federal government does not pay for the entire cost of construction or improvement of Federal-aid highways. Federal funds must be matched with funds from other non-federal sources.

Public Involvement Plan - A required, integral part of an environmental study plan which outlines procedures for presenting information to the public, obtaining public comment, and considering public opinion.

QAP - Quality Assurance Plan

RA - Residency Administrator, VDOT's manager in a local field office overseeing one to six counties.

Record of Decision - A document prepared by the federal lead agency, after an EIS has been completed, outlining the final decision on a proposal. It identifies the decision, alternatives considered, and measures to minimize harm; and it outlines a monitoring or enforcement program.

RFP - Request for Proposals

Right of Way (R/W) - This phase includes the work necessary to appraise and acquire project right of way, relocate individuals or businesses, and revise or relocate utilities.

SAFETEA-LU - Safe, Accountable, Flexible, Efficient Transportation Equity Act is the current federal appropriation act for transportation funds.

RSTP - Regional Surface Transportation Program funds are federal funds used for transportation projects in urban areas. Project selection for RSTP funds is made by the local MPO.

Section 4(F) Evaluation - A document presenting the consideration, consultations, mitigative measures, and alternatives studied for the use of properties identified in Section 4(F) of the U.S. Department of Transportation Act as amended (49 USC 1653H).

Section 4(F) Lands - Generally, public parks, recreation areas, wildlife refuges, and historic sites.

SERP - State Environmental Review Process is the process that allows state environmental agencies the opportunity to comment on Virginia Department of Transportation (VDOT) projects at the earliest possible stage and supply environmental resource information regarding them

Socially And Economically Disadvantaged Individuals - Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans, and any other minorities or individuals found to be disadvantaged by the Small Business Administration pursuant to Section 8(a) of the Small Business Act. These individuals must be U.S. citizens or lawfully admitted permanent residents.

Special Provisions - A portion of the construction contract specifications separate from the General Provisions and covering conditions unique to a specific project.

SSYP - Secondary Six Year Plan is a county's plan and budget for secondary road projects.

Standard Specifications - Sets of typical construction contract specifications.

State Fiscal Year - Begins on July 1 and ends on June 30 of each calendar year. For example, July 1, 2008 is the beginning of the state fiscal year 2009

State funds - As used in this manual, includes the State funds provided to local agencies for specific transportation projects.

STIP - Statewide Transportation Improvement Program; A three year list of all State and local transportation projects proposed for Federal surface transportation funding with the State. This is developed by VDOT with cooperation of the MPOs and in consultation with the local non-urbanized government. The STIP includes the TIPs, which are incorporated by reference and other rural federally funded projects. The STIP, including incorporated TIPs is only valid for use after FHWA approval..

SYIP - Six Year Improvement Program is VDOT's plan to allocate funds for transportation projects proposed for construction, development, or study in the next six years

TEA-21 - Transportation Equity Act for the 21st Century.

23 USC - The section (Title 23) of the United States Code containing laws relating to highways.

23 CFR - The section (Title 23) of the Code of Federal Regulations containing regulations (general and permanent rules published in the Federal Register) relating to highways. Not included are regulations based on Civil Rights requirements in Title 49, the Uniform Relocation Assistance and Real Property Policies, and other Federal laws and regulations as described in this manual.

TIER 1 Project – These projects are considered to be smaller, less complicated projects that have fewer risks, fewer right-of-way impacts and fewer construction impacts. These projects generally include projects having construction values less than $5 million that have been designated as NFO projects. Oversight responsibility for these projects is at the VDOT District level and will follow reviews processes established by VDOT Districts for these types of projects.

TIER 2 Project – These projects are more complex, have more right-of-way and construction issues, include Design-Build and FO projects, and all projects that

have a construction value greater than $5 million. Tier 2 projects will have full CO oversight and will follow the processes outlined in this manual.

TIP - Transportation Improvement Program is a three-year transportation investment strategy, required at the metropolitan level, and a two-year program at the state level, which addresses the goals of the long-range plans and lists priority projects and activities for the region.

Total Cost - Total cost on a federally funded project includes all federal funds, state funds, local funds, private funds, in-kind contributions, nonparticipating funds, and other funds on the project.

TMA - MPOs with populations over 200,000 are designated as Transportation Management Areas (TMAs).

TTF - The Transportation Trust Fund was created by the 1986 Special Session. VDOT manages the 78.7% of the TTF funds dedicated by the Code of Virginia for highway construction.

UCI - Urban Construction Initiative provides participating municipalities with the opportunity to manage their entire construction program.

UPC - Universal Project Code is a unique number assigned to each project funded through VDOT.

UPM - Urban Program Managers are the primary VDOT liaison with the municipalities in the urban system

USC - United States Code

USPAP - Uniform Standards of Professional Appraisal Practice

VDHR - Virginia Department of Historic Resources

VDOT - Virginia Department of Transportation

VE - Value Engineering (VE) is a systematic, creative study process conducted by engineers and technicians to obtain optimum value for every dollar spent. The Code of Virginia requires VDOT to employ value engineering in conjunction with

any project on any highway system using criteria established by the Department and including but not limited to all projects costing more than $5 million.

VPPA- Virginia Public Procurement Act

VMT - Vehicle Miles Traveled

Locally Administered Projects (LAP) Manual

PART 1
Program Development
Chapter 1
Virginia Department of Transportation Policy

CHAPTER 1

INTRODUCTION TO LOCALLY ADMINISTERED PROJECT PROCESS

1.1 VDOT POLICY ON LOCALLY ADMINISTERED PROGRAMS AND PROJECTS

Local administration of Virginia Department of Transportation (VDOT) funded projects has become more commonplace in Virginia. VDOT's business plan identifies "the transfer of program delivery to localities, where feasible," as a specific initiative. To promote VDOT's commitment to effective local program delivery and to emphasize this aspect of the business plan, VDOT's commissioner enacted Department Policy Memoranda (DPM) Number 8-7 in February 2008 entitled *Delivery of Locally Administered Programs and Projects.* This policy was developed to ensure that VDOT has the appropriate tools in place to ensure a successful program as more local governments assume this responsibility. The policy further emphasizes that the successful delivery of transportation projects is only achieved through an effective partnership between VDOT and localities. Specifically, the policy states:

> "*VDOT will develop programs and processes that provide local governments the necessary tools to successfully administer transportation programs and that provide consistent requirements so federal and state stewardship and oversight obligations can be met and projects can be implemented in the most efficient and effective manner possible*."

This manual has been developed by the VDOT Local Assistance Division (LAD), in consultation with other VDOT policy divisions and district representatives to meet the goals outlined in the commissioner's policy. The purpose of this manual is to provide guidance and direction to all stakeholders, outline federal requirements for those localities choosing to administer federal-aid projects, and

provide guidance to VDOT staff assigned an oversight role for locally administered projects.

The term Local Public Agencies (LPAs) will be used throughout this manual when referring to local governments, to ensure consistency with federal terminology.

1.2 APPLICABILITY

This manual is applicable to any LPA-administered project receiving federal or state aid through VDOT.

The primary focus of this manual is to identify requirements necessary for federal-aid projects, but it will also identify exceptions or modified requirements for projects receiving state aid or receiving funding through special funding programs and those projects administered by LPAs having programmatic agreements to administer their entire construction program.

Many of the legal requirements that local governments must meet for transportation projects funded through VDOT programs are no different than requirements the local governments would need to meet for any other capital outlay project. As such, these requirements are not always detailed in this document.

1.3 AUTHORITY

The Code of Virginia authorizes VDOT to enter into agreements with localities, authorities and transportation districts to delegate the administration of transportation projects. Federal law also authorizes state DOTs to enter into agreements with LPAs to administer federal-aid projects provided certain criteria are met. Any LPA that chooses to take advantage of this opportunity must adhere to applicable state and federal laws, as well as any Commonwealth

Transportation Board (CTB) policies identified as being applicable to locally administered projects.

Locally Administered Projects (LAP) Manual

PART 1
Program Development

Chapter 2

Qualifications for Federal and State-Aid Project Administration

CHAPTER 2
QUALIFICATIONS FOR FEDERAL AND STATE-AID PROJECT ADMINISTRATION

2.1 BACKGROUND

In order to receive authorization to administer a transportation project, LPAs must demonstrate minimal capabilities as outlined below. When an LPA submits a Request to Administer (RtA) form, the LPA's qualifications and capabilities are considered by the District before a recommendation is made to the Chief Engineer regarding authorization for the LPA to administer the project. A more detailed discussion of the RtA and agreement process is provided in Chapter 10.

2.2 FEDERAL-AID PROJECTS

Section §1904 of SAFETEA-LU, requires that the states be responsible for determining that sub-recipients of federal funds have adequate project delivery systems and sufficient accounting controls to properly manage federal funds.

Adequate project delivery systems can be demonstrated in several different ways, including:

- Capital project experience: experience with projects of similar nature, size and complexity.
- Certification of their capital project delivery processes through nationally recognized programs such as the American Public Works Association.
- Staff experience and education: staff experience with projects of similar nature, size, and complexity and/or documented professional education in transportation-related disciplines.
- Experience with federal-aid projects

Sufficient Accounting Controls:

All LPAs must demonstrate appropriate accounting controls for state aid, pursuant to State law and regulations promulgated by the Auditor of Public Accounts (APA).

The LPA must be able to identify, track, and maintain records for all expenses for which full or partial reimbursement is requested. VDOT and/or Federal Highway Administration (FHWA) may audit all financial records related to federal-aid projects and LPAs may be required to return federal funds for which adequate financial records cannot be provided.

All LPAs receiving federal aid (over $500,000 annually) must submit an annual audit prepared in accordance with OMB Circular A-133 Subpart C – Auditees, Section 300, Auditee Responsibilities (e). A more detailed discussion of this submittal requirement is provided in Chapter 19.

2.3 STATE AID VDOT PROJECTS

Virginia Code sections 33.1-12 and 33.1-75.3 (c), require VDOT's concurrence for a LPA to administer a VDOT-funded project. Since state-aid transportation project requirements are substantially similar to local government capital outlay projects requirements, VDOT's responsibilities are to assist the LPA understand those aspects of project delivery that are unique to transportation, such as design and highway construction administration. VDOT's oversight is intended to protect VDOT's interests in cases where the constructed project will be operated and maintained by VDOT and to ensure transportation funds are utilized in a manner as agreed to with the department.

Chapter five, of this Part, provides a detailed discussion of requirements for state-aid (non- federal-aid) projects.

2.4 REQUIREMENTS FOR ADMINISTERING PROJECTS ON NHS OR PRIMARY SYSTEM

Generally, VDOT will only concur with local administration of projects on the National Highway System or Primary System by very experienced LPAs or where the local government has operational control of those highways within their jurisdiction. When an LPA requests to administer this type of project, a more thorough assessment of LPA's qualifications and capabilities will be performed. Additional requirements and agreement conditions outside those identified in this manual may be required and increased VDOT oversight should be expected.

2.5 LPA FUNDED PROJECTS

This Manual is not directly applicable to locally funded, locally administered projects, but may provide useful project management guidance for locally funded projects. Locally funded projects that will be subsequently maintained by VDOT are administered in accordance with the land-use permit process. Plans will be reviewed and VDOT will have an oversight role during construction. For any project funded in it's entirely with local funds but administered by VDOT, an agreement is required (see chapter 10) and VDOT will typically follow its normal process for state funded projects.

Locally Administered Projects (LAP) Manual

PART 1
Program Development

Chapter 3

Roles and Responsibilities

CHAPTER 3
ROLES AND RESPONSIBILITIES

3.1 VDOT AND LPA GENERAL RESPONSIBILITIES

VDOT has a delegated responsibility to ensure that federal transportation funds are properly obligated, authorized, and utilized. For all projects, including LPA-administered projects, this responsibility extends from the programming of the funds through project completion and closeout.

LPA's are fully responsible for the administration of their projects and are required to provide a full-time local government employee responsible for the project. The LPA must also provide a professional engineer, licensed in Virginia, who may be contracted, in the position of the Responsible Charge Engineer (RCE) during design and construction of the project. Unless otherwise established in the project administration agreement, the LPA is also responsible for providing adequate construction inspection to ensure that the project is constructed in accordance with the contract documents and specifications.

The LPA must be particularly diligent to ensure compliance with all applicable federal and state requirements. Non-compliance can result in partial or complete withdrawal of federal and/or state participation in the project. In the event of the LPA's noncompliance with applicable requirements, VDOT may impose such contract sanctions as it or the Federal Highway Administration (FHWA) may determine to be appropriate, including but not limited to withholding of payments to the LPA under this Agreement until the LPA complies; and/or cancellation, termination or suspension of the Standard Project Administration Agreement, in whole or in part. Where reimbursements have been made, VDOT and FHWA have the authority to seek reimbursement.

3.2 GENERAL VDOT OVERSIGHT EXPECTATIONS/OBLIGATIONS

As previously stated, VDOT has responsibility for assuring that federal funds are properly utilized throughout project development and delivery. VDOT also is committed to assisting the LPAs so that they are successful in their management and administration of highway construction projects.

Some of the major VDOT federal-aid oversight activities include:

- Project programming (Verify Funding/Agreement)
- Phase authorizations (PE, RW and Construction)
- National Environmental Policy Act (NEPA) approvals
- Consultant procurement review (RFP's, etc.), as necessary
- Design Review at key milestones
- Design exception approval
- Right of Way Certification
- Plans Specifications and Estimates Approval - Bid package review/Award Approval
- Civil Rights monitoring and goal setting (monitoring is a shared responsibility with LPA)
- Construction administration reviews
- Project acceptance/financial closeout

3.3 GENERAL LPA EXPECTATIONS

LPAs must maintain an administrative record of project development and delivery activities that sufficiently demonstrate compliance with federal requirements. These records must be maintained and available for review by FHWA or VDOT for a minimum of **three years after final financial closeout of the project**. In some cases the records will be submitted to VDOT at the end of the project. Activities regulated by other state and/or federal agencies may have different

recordkeeping requirements to which the LPA will be expected to adhere. The following list includes some of the obligations that an LPA must meet to achieve minimum federal performance criteria:

- Provide a local government employee responsible for the project
- Perform adequate project scoping to accurately define the project
- Preparation of NEPA documents
- Project design
- Design QC/QA
- Public participation
- ROW acquisition/Utility relocation
- Preparation of bid documents
- Advertisement
- Civil Rights monitoring and goal setting (monitoring is a shared responsibility with LPA)
- Award
- Construction management
- Project acceptance
- Financial controls/invoicing

Specific LPA project administration expectations and VDOT oversight requirements are outlined in more detail throughout this Manual.

3.4 STAFF RESPONSIBILITIES

In order to ensure effective communication between the LPA and VDOT, each organization is required to assign a governmental employee to lead their efforts.

3.4.1 The VDOT Project Coordinator

VDOT will assign a project coordinator (PC) to work with the LPA and to provide guidance, as needed, for all aspects of project development. However, the PC is

not responsible for specific project administration and the LPA must not expect the PC to provide quality control for their consultants' work. The PC will be the LPA's liaison with VDOT staff having an approval, review, or advisory role for the project. In order for the project to progress smoothly, it is essential that adequate communication and coordination between the LPA and the PC be maintained. Unless otherwise indicated all communication to VDOT support and review staff must be coordinated with, or through, the VDOT Project Coordinator. General activities that the PC is responsible for include:

- Provide the LPA with applicable guidance materials, forms, checklists
- Receive all submittals from LPA and coordinate VDOT review
- Provide feedback to LPA on all submittals
- Provide guidance as issues are identified
- Monitor LPA schedule to ensure federal obligations can be met
- Act as liaison between LPA project manager and VDOT technical staff

3.4.2 The VDOT Construction Project Monitor

VDOT's Construction Project Monitor (CPM) assumes the role as VDOT's project coordinator once the project has been awarded and proceeds to construction. The CPM provides the required VDOT oversight for the construction project and is a resource to the LPA project manager. The CPM must be familiar with a wide range of construction activities and will be the single point of contact for all VDOT site visits and project reviews during construction. No other VDOT staff should perform on-site inspections without the prior knowledge of the CPM. This allows the CPM to be on site and facilitate the inspection.

The CPM's primary role is to document the LPA's conformance with project specifications and specific legal or regulatory requirements as outlined in this manual through periodic project reviews. The CPM is expected to use his/her professional judgment to determine which aspects of the project should be evaluated during each review. The CPM is responsible for providing a general

level of oversight during the construction process. The CPM is not responsible or accountable for actions/inactions of the LPA or their contractor. Throughout construction the Construction Project Monitor may enlist the support of other VDOT staff to assist in the oversight of the locally administered projects, as needed. Additional guidance regarding construction oversight is found in Chapter 13.1. A few of the CPM's duties will include:

- Attend preconstruction/progress meetings
- Periodic review of project documentation
- Verify materials acceptance procedures
- Periodic spot inspection of work (does not substitute for LPA Construction Engineering Inspection)
- Review/approval of reimbursement requests
- Participate in work/change orders as appropriate
- Participate in final project inspection

3.4.3 The LPA Project Manager

The LPA Project Manager (PM) is responsible for ensuring that project specifications and all federal and state regulations applicable to highway construction projects are met. The PM must have the responsibility, authority, and resources to effectively manage the project and will serve as the LPA contact for all issues. The PM must be actively engaged and familiar with project progress and make final decisions regarding project development and delivery. The PM must, during project construction, visit the project site on a frequency that is commensurate with the magnitude and complexity of the project. To make effective project management decisions, the PM must have sufficient knowledge of and experience with transportation projects. VDOT, FHWA, NHI, the Transportation Training Academy, and others provide training opportunities in project delivery. Training opportunities are further outlined in Chapter 4.

Generally the PM responsible for:

- Coordinating LPA RtA request/Agreement Review/Signature
- NEPA
- Right-of -Way
- Confirm Funding Availability/Phase Authorization
- Consultant Contract Administration
- Ensure Timely Submittals to VDOT Project Coordinator
- Ensure LPA Project Progress and Flow
- Ensure Bid Process Meets Appropriate Requirements
- Ensure Adequate Construction Inspection
- Ensure Compliance with Civil Rights, Environmental, Materials Acceptance Requirements
- Local Approval of Change Orders
- Processing Contractor Claims
- Reimbursement Requests/Documentation

The LPA may utilize a contract employee to manage day to day progress of the project. During such arrangement, however, a full-time employee of the LPA must be assigned as the Local Government Employee responsible for the project that must be familiar with and accountable for, all actions of the contract employee performed on the LPA's behalf.

3.5 Dispute Resolution

VDOT and Localities work as partners in the delivery of state-aid and federal-aid transportation projects in Virginia. On occasion, disagreements over project requirements will occur. VDOT's policy is to attempt to resolve disputes constructively and at the "lowest" level between project management staff. When disputes occur, the VDOT Project Coordinator and LPA Project Manager should initially attempt to resolve the issue informally. This often requires that project development / delivery discipline specialists provide assistance early in the discussions between the VDOT Project Coordinator and the LPA Project

Manager. If informal discussions do not result in an amenable resolution, the LPA must submit a written notification to the VDOT Project Coordinator. The notification must include the nature of the dispute, the results of any informal discussions which may have already occurred, and suggested courses of action. The VDOT Project Coordinator will work within the established VDOT chain-of-command to respond to the notification in a productive manner. Central Office Policy Divisions, including the Local Assistance Division, may be consulted during this time for policy interpretations and guidance. The VDOT Project Coordinator will document all correspondences and include in the project files.

If a dispute cannot be resolved to the satisfaction of either the locality or the VDOT District, either party may refer the dispute to VDOT's Central Office. When this occurs, the referral must be in writing to the Local Assistance Division Director (or to the Assistant Division Director or the Locally Administered Projects Program Manager) and must include a detailed narrative of the issue and the actions taken to resolve the dispute. Local Assistance Division staff will then coordinate with the appropriate Central Office Policy Divisions to find a practical solution to the dispute. The Local Assistance Director will provide a final written determination which will be entered into the Project Files by the VDOT Project Coordinator.

Locally Administered Projects (LAP) Manual

PART 1
Program Development

Chapter 4

Resources for Local Governments

CHAPTER 4

RESOURCES FOR LOCAL GOVERNMENTS

There are many training opportunities available to LPAs to assist them to obtain the skills necessary to successfully administer transportation projects. The following identifies just a few of the resources available to LPAs.

4.1 VDOT LOCAL PARTNERSHIP TEAM

VDOT has created a Local Partnership Team (LPT) with the goal of providing assistance and training to those local governments administering or planning to administer federal-aid transportation projects. The most up to date information about upcoming training can be found on the LPT Web site at http://www.virginiadot.org/business/local-assistance-lpt.asp.

The LPT workshops include the following:

- General Project Delivery
- Contract Management
- Environmental Requirements
- Construction Management

4.2 VDOT VIRTUAL CAMPUS

VDOT offers training opportunities through the VDOT Virtual Campus https://virtualcampus.vdot.virginia.gov. Resources range from training for current external applications such as Project Cost Estimating System (PCES) and Dashboard to Project Management, highway plan reading, and many other project related skills.

4.3 NATIONAL HIGHWAY INSTITUTE

In addition to these direct VDOT training opportunities, the FHWA - National Highway Institute (NHI) provides a number of on-site and on-line workshops and seminars directly related to federal-aid highway project administration. The NHI catalog can be found at http://www.nhi.fhwa.dot.gov/training/brows_catalog.aspx.

Some NHI courses available include:

- Highway Program Financing
- Federal-aid Highways
- Partnering: A Key Tool for Improving Project Delivery in the Field
- Materials Control and Acceptance - Quality Assurance
- Contract Administration Core Curriculum
- Basic Construction and Maintenance Documentation - Improving the Daily Diary (online course)
- Basic Materials for Highway and Structure Construction and Maintenance (online course)
- Basic Relocation under the Uniform Act
- Local Public Agency Real Estate Acquisition (online course)

4.4 TRANSPORTATION TRAINING ACADEMY

The Transportation Training Academy at the University of Virginia - Center for Transportation Studies (http://cts.virginia.edu/uva-tta.html) also provides training opportunities for local government.

Examples of currently available courses include:

- Project Management for the Transportation Professional
- Basic Construction Management for Local Governments
- Designing Pedestrian Facilities for Access

4.5 WORK ZONE TRAFFIC CONTROL TRAINING REQUIREMENTS

To improve safety and mobility during construction and maintenance activities, personnel involved in the development, design, implementation, operation, inspection, and enforcement of work zone related transportation management and traffic control must be trained, appropriate to the job decisions each individual is required to make. Work zone traffic control plans, Maintenance of Traffic, Sequence of Construction and/or temporary traffic control devices shall not be designed, implemented or installed in the field unless performed by or under the direct supervision of a person who has satisfactorily completed the training requirements. Details regarding work zone traffic control training are available on our Web page at http://www.virginiadot.org/business/trafficeng-WZS.asp.

Locally Administered Projects (LAP) Manual

PART 1
Program Development

Chapter 5

State Funded Projects and Special Program

CHAPTER 5
STATE FUNDED PROJECTS AND SPECIAL PROGRAM FUNDED PROJECTS

5.1 INTRODUCTION

Because some projects are funded through special funding sources that may have specific requirements related to the funding source and some localities have programmatic responsibility for their entire construction program, there are additional guidance documents or manuals that LPAs may need to reference when administering those projects. This chapter will address exceptions to the typical project development and oversight processes for federal-aid projects. The following types of projects are addressed in more detail in the remainder of this chapter:

- State-aid projects: Projects which do not receive FHWA federal aid or will not otherwise be developed as eligible for federal aid but will be reimbursed by VDOT with special or formula allocations.

- Revenue Sharing Program Projects: Projects which are funded solely through the VDOT Revenue Sharing program and local government funds. These are a subset of state-aid projects and all streamlining opportunities of the state-aid projects are available. Currently there is a separate revenue sharing program manual that addresses programmatic requirements of the program.

- Access Program Projects: Projects which are funded solely through the VDOT access program and local government funds. These include economic development, recreational, and airport access projects. These are a subset of state-aid projects and all streamlining opportunities of the state-aid projects are available. Currently there is a separate access

program manual that addresses programmatic requirements of the program.

- Enhancement Program: These projects receive federal aid. However, since many of them are “non-highway related” and off-system, specific streamlining opportunities are available to them. Currently there is a separate enhancement program manual that addresses programmatic requirements of the program.

- Urban Construction Initiative/Localities Managing Under Programmatic Agreement: Some local governments manage their construction programs through programmatic agreements and have separate guidance documents that are applicable.

5.2 STATE-AID PROJECTS

All projects funded with state formula allocations will be developed to qualify for federal aid. This section is only applicable to projects that are ineligible for federal aid or have been exempted from being developed as federal-aid projects due to funding source (revenue sharing, access, coal severance, etc) or have been provided a project specific exemption.

For state aid projects, responsibility for compliance with applicable state and federal laws and regulations rests entirely with the local government. VDOT does not act in a compliance or regulatory role. VDOT’s oversight of these projects is intended to protect VDOT’s liabilities and interests and will focus on activities which provide that protection. State and federal agencies provide regulatory compliance oversight for these projects. Accordingly, many of the LPA submittal requirements and VDOT oversight activities outlined in this document are not applicable for state-aid projects and, where necessary, are identified throughout the manual.

VDOT will require a certification statement, found in Appendix 5-A, from the LPA, that all applicable state and federal requirements have been met, in place of many of the VDOT oversight activities normally performed for federal-aid projects. This certification is provided to the Project Coordinator prior to award of the construction contract by the LPA. The Project Coordinator will forward the Certification to the LAD director. Failure to provide this certification may result in a loss of reimbursement. During construction, the LPA will be required to submit a certification of compliance, as outlined in Appendix 13.1 F, with each invoice submitted for reimbursement.

The following is an overview of LPA requirements and VDOT oversight activities for state-aid projects:

Design Requirements/Plan Review

For projects which will be maintained by VDOT, the LPA will design and submit plans for review, in accordance with Chapter 12, of this manual. The frequency of plan reviews is determined by the Project Coordinator and the LPA based on the project risk (see Chapter 9). VDOT's design reviews will be to ensure that appropriate standards are being used and that the road as designed will not create maintenance issues.

For projects maintained by the LPA, the LPA will certify that the plans have been developed in accordance with American Association of State Highway and Transportation Officials (AASHTO) standards. VDOT will perform plan reviews and will provide technical assistance, only as requested by the LPA.

Environmental Coordination

Local governments are solely responsible for compliance with all pertinent environmental regulatory requirements. VDOT Environmental staff is available as a resource to the LPA; however, the LPA is responsible for all final decisions.

SERP will continue to be performed by VDOT for projects over $500,000 in construction value in accordance with the Memorandum of Agreement between the Secretaries of Transportation and Natural Resources (See Chapter 15.3.2 for additional guidance). Any conditions of regulatory approval that come out of SERP are the responsibility of the LPA to fulfill. VDOT has responsibility to ensure that any conditions of regulatory approval that come out of SERP are fulfilled. A condition of regulatory approval does not include statutory or regulatory requirements the LPA must meet, regardless of SERP. Compliance with those requirements for state-aid projects will be certified by the LPA prior to project award.

Right of Way Acquisition

LPAs acquiring property in their own name, under their own authorities, must meet State requirements as outlined in the Code of Virginia. VDOT does not provide certification of local government compliance with these laws. However, LPAs which will be reimbursed through VDOT programs or acquiring Rights of Way that will be subsequently maintained by VDOT must submit a request for and obtain a ROW acquisition authorization prior to actual acquisition activities. VDOT's role during this authorization will be solely to verify that the LPA is only acquiring necessary lands to build and maintain the project. Compliance with Virginia Code requirements regarding relocations and property acquisitions rests solely with the local government.

Public Involvement

LPAs have specific state Code requirements for public involvement of local government Capital Improvement Projects. Where applicable, LPAs must include the projects in their Capital Improvement Program and follow Virginia Code public involvement requirements applicable to the development of capital projects.

Construction Administration

For projects that will be subsequently maintained by VDOT, construction and materials acceptance practices are expected to be in conformance with Chapter 13. Materials incorporated into the project must be approved by the Department. VDOT will provide oversight to verify adequate construction and an acceptable final product for any project that will ultimately be maintained by VDOT in a manner similar to developer projects constructed under a land-use permit. VDOT site reviews will include a written follow-up of any deficiencies that may impact VDOT's acceptance of the project.

For projects that will be subsequently maintained by the LPA, construction practices must adhere to the LPA's contract requirements.

5.2.1 Revenue Sharing Program

Projects funded solely with revenue sharing funds will follow the same project oversight requirements described above for the phases being funded with revenue sharing funds. Projects using federal aid will meet federal-aid requirements regardless of the amount of revenue sharing or other funding. Projects fully funded through the revenue sharing program are considered approved for advertisement by the CTB at the time of project allocation and further CTB or department approval is not required for advertisement or award. However, the certification of compliance in Appendix 5-A (Certification Form for State Funded Projects) must be submitted prior to project award.

The Revenue Sharing Program Guide provides further guidance on project implementation since these projects are not approved through the typical programming process.

5.2.2 Access Programs (Economic Development, Recreational and Airport)

The Access programs managed by VDOT (economic development, recreational and airport) provide funding to offset the cost of road projects that meet very specific criteria. When funding is approved, the CTB's resolution outlines the contingencies that must be met in order for the LPA to receive reimbursement. The LPA is always responsible for acquisition of ROW if necessary, utility adjustments and all permits. The CTB resolution specifically addresses that SERP must be addressed, the ROW must be certified by the LPA and that an agreement must be executed. These projects are considered approved for advertisement by the CTB at the time of project allocation and further CTB or Department approval is not required. However, the certification of compliance in Appendix 5A must be submitted prior to project award.

VDOT's role with these projects is to ensure CTB contingencies are met prior to reimbursement and provide assistance as needed during the project. For streets that will be accepted for maintenance by VDOT, the plans will be reviewed and VDOT will perform spot inspections as deemed necessary and a final inspection prior to acceptance to ensure the road meets minimum criteria to be accepted into the system of state highways, as applicable. The appropriate Access Program Guide should be consulted for funding guidance.

5.3 ENHANCEMENT PROGRAM

Projects that receive Transportation Enhancement funds must be managed in the same manner as any other federal-aid project, except that projects off highway rights of way and not linked to a regular federal-aid project have specific exemptions from certain federal-aid requirements. These exemptions are identified in federal law and further clarified in several FHWA directives and guidance documents. FHWA has authorized the State Highway Agencies (SHAs) to procure smaller, low cost transportation enhancement projects not located within the highway right-of-way, under the procedures of the "Common Rule."

There are numerous streamlining opportunities that are inherent within these procedures which allow using state procurement processes instead of federal procurement processes. Whether the procedures of the Common Rule are available may not always be evident, and should not be assumed. The VDOT project coordinator should be consulted regarding whether the project qualifies for the more flexible approach prior to assuming it is available for a particular project.

Appendix 5-B summarizes federal requirements and indicates which may not be applicable on non NHS projects or on projects off federal-aid highway rights of way. FHWA's Contract Administration Core Curriculum Manual should be used as a resource to clarify these exemptions.

The Enhancement Program Procedure Manual continues to be an excellent reference guide for enhancement projects since it addresses some of the unique aspects of this program.

5.4 URBAN CONSTRUCTION INITIATIVE/LOCALITIES MANAGING UNDER PROGRAMMATIC AGREEMENT

LPAs that have assumed full responsibility for their construction program are provided more autonomy than localities administering individual projects. The programmatic agreement for these localities outlines their commitment to meet all applicable federal requirements. All projects administered by these localities will continue to follow the Urban Construction Initiative Program Administration Guide until such time that the programmatic requirements are incorporated into this document.

Appendix 5-A

Certification Form for State Funded Projects

Project Number: UPC:

This certification form is to be used to certify adherence to all applicable laws and regulations pertaining to locally administered state funded projects. This certification form will not be used for projects utilizing any federal funds. The signature at the bottom will certify that **<INSERT LOCAL GOVERNMENT NAME>** has met the following requirements for state funded projects. VDOT may perform project audits to verify compliance with this certification. False or inaccurate statements identified by VDOT or other state regulatory agencies may result in the requirement to return state aid and/or other penalties as allowed by State law.

Initials	Certification Statement
	Check applicable statement: ☐For highways maintained by the LPA, project plans have been designed in accordance with AASHTO standards and signed and sealed by a Virginia registered P.E. in accordance with DPOR; **OR** ☐For highways which will be operated and maintained by VDOT, project plans have been designed in accordance with VDOT Standards and that VDOT has reviewed the plans in accordance with the agreed upon schedule and all necessary design variances/waivers have been attained and the plans have been signed and sealed by a Virginia registered P.E. in accordance with DPOR.
	All required regulatory agency coordination has been made and applicable permits or approvals have been acquired.
	Where VDOT will operate and maintain the highway, that the LPA has performed appropriate due diligence to identify environmental hazards on new right of way and to the best of our knowledge, any existing environmental hazards have been identified and mitigated or a plan for mitigation during construction has been made.
	Project was developed in accordance with State laws and regulations governing public involvement so that adequate and appropriate public notice and opportunity for public comment was provided.
	All right of way has been obtained and that the LPA has legal right of entry onto each and every parcel for the advertisement and construction of the referenced Project.
	The LPA has complied with the Code of Virginia requirements pertaining to relocations and the acquisition of real property.
	All affected utilities have been relocated or companies authorized to relocate their facilities. If not, they are included as in-plan work to be performed by the road contractor.
	The project was advertised in accordance with the Virginia Public Procurement Act and that the advertisement package included all appropriate EEO provisions.
	All environmental regulations as are applicable to local government capital improvement projects and as required by State or federal laws applicable to non federal-aid projects have been met or provisions to meet continuing requirements during construction have been made.

<INSERT LOCAL GOVERNMENT NAME> acknowledges that failure to fulfill its legal obligations associated with those requirements identified in this certification may result in project delays and/or delays or forfeiture of State reimbursements. **<INSERT LOCAL GOVERNMENT NAME>** further acknowledges that obligations associated with those requirements identified in this certification may be subject to audit by VDOT or State oversight agencies.

_____

Local Government Manager (City Manager, County Administrator, City Engineer or County Director of Public Works or designated authority to sign)

_____

Date

cc: Project file
VDOT Project Coordinator
VDOT Local Assistance Director

Click here for the WORD version of this form

Appendix 5-B

NHS, non-NHS, and off Rights of Way Contract Provision Requirements
With VDOT Minimum Standards

Summary of Federal Requirements for NHS, Non-NHS and Service Contracts Federal Requirements							
SUBJECT	USC	CFR	OTHER LAWS	Applicability			REMARKS
				Construction Contracts		Non-Highway Construction or "Service Contracts"*	
				NHS	Non-NHS		
Prohibition Against Use of Local Hiring Preferences (FHWA-1273 - Sec 1-6)		635.117(b)		Yes	Yes	No	
Prohibition Against the Use of Convict Labor (FHWA-1273 - Sec 1-6)	23 USC 114(b)	23CFR 635.117(a)		Yes	Yes**	No	**Prohibition only applies to projects on Federal-aid highways
Nondiscrimination (FHWA-1273 - Sec II)	23USC 140, 23 USC 324, 49 USC 322, 42 USC 12101-12213, 42 USC 3601-3619	23 CFR 200, 23 CFR 230D, 23 CFR 635.17 28 CFR 35 29 CFR 1630 41 CFR 60 49 CFR 21, 23 28 CFR 50.3 49 CFR 25	*The Civil Rights Act of 1964, Title VI *The Age Discrimination and Employment Act of 1967 *The Age Discrimination of 1975 *The American Disabilities Act of 1990	Yes	Yes	Yes	All contracts and subcontracts of $10,000 or more
Non-segregated Facilities (FHWA-1273 - Sec III)		23 CFR 633A 41 CFR 60.1.8	Title VI	Yes	Yes	Yes	All contracts and subcontracts of $10,000 or more

Summary of Federal Requirements for NHS, Non-NHS and Service Contracts Federal Requirements							
SUBJECT	USC	CFR	OTHER LAWS	Applicability			REMARKS
				Construction Contracts		Non-Highway Construction or "Service Contracts"*	
				NHS	Non-NHS		
Payment of Predetermined Minimum Wage (FHWA-1273 - Sec IV)	23 USC 113, 40 USC 276 (a) & (c)	23 CFR 635, 309(f), 29 CFR 1, 3, 5	Davis-Bacon Act Copeland Anti-Kickback Act	Yes	**	**	**Construction contracts on a Federal-aid Highway exceeding $2,000 except Rural collector and local roads
Statements and Payrolls (FHWA-1273 - Sec V)	40 USC 276 (a) & (c), 18 USC 874	23 CFR 635.118 29 CFR 3, 5	Davis-Bacon Act Copeland Anti-Kickback Act	Yes	**	**	**Same as above
Record of Material, Supplies and Labor (FHWA 47) (FHWA-1273 - Sec VI)		23 CFR 635.126		**Yes	No	No	**Applies to NHS projects > $ 1M (excl. FA, Beaut, RR etc.)
Subletting or Assigning the Contract (FHWA-1273 - Sec VII)		23 CFR 635.116		Yes	No	No	
Safety: Accident Prevention (OSHA compliance) (FHWA-1273 - Sec VIII)	40 USC 333	23 CFR 635.108 29 CFR 1926	OSHA	Yes	Yes	Yes	All construction projects
False Statements Concerning Highway Projects (FHWA-1273 - Sec IX)	18 USC 1020	23 CFR 633A, 23 CFR 635.119		Yes	Yes	Yes	All construction projects
Implementation of the Clean Air Act and Federal Water Pollution Control Act (FHWA-1273 - Sec X)	33 USC 1251 42 USC 1857	23 CFR 633A 40 CFR 15		Yes	Yes	Yes	All contracts and subcontracts of $100,000 or more

Summary of Federal Requirements for NHS, Non-NHS and Service Contracts Federal Requirements							
SUBJECT	USC	CFR	OTHER LAWS	Applicability			REMARKS
				Construction Contracts		Non-Highway Construction or "Service Contracts"*	
				NHS	Non-NHS		
Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion (FHWA-1273 - Sec X1)		23 CFR 635.112(g) 49 CFR 29		Yes	Yes	Yes	Contracts and subcontracts of $100,000 or more
Certification Regarding the Use of Contract Funds for Lobbying (FHWA-1273 - Sec X11)	49 USC 322A	23 CFR 635.112(g) 49 CFR 20 49 CFR 29		Yes	Yes	Yes	Contracts and subcontracts exceeding $100,000
Appalachian Contract Employment Preference	40 USC Appendix 201	23 CFR 633B	Appalachian Regional Development Act	**	**	**	Only APD funded contracts
Buy America	STAA Section 165 ISTEA Section 1041(a) & 1048(b)	23 CFR 635.410		Yes	Yes	**Yes	**All construction projects funded under Title 23
Disadvantaged Business Enterprise	23 USC 140(b)	23 CFR 200 & 230B, C, D 49 CFR Part 26 (DBE) 49 CFR Part 21 (Title V1)		**Yes	**Yes	**Yes	**Applicable as necessary to meet State DBE program goals
Indian Preference on Federal-aid projects (Labor & Employment)	23 USC 140 42 USC 2000e-2i	23 CFR 635.117		**	**	**	**Any project meeting "guidance criteria (see text)
Non-Collusion Certification	23 USC 112	23 CFR 635.112(f)		Yes	Yes	No	

Summary of Federal Requirements for NHS, Non-NHS and Service Contracts Federal Requirements							
SUBJECT	USC	CFR	OTHER LAWS	Applicability			REMARKS
				Construction Contracts		Non-Highway Construction or "Service Contracts"*	
				NHS	Non-NHS		
On-the-Job Training	23 USC 140(a) & (b)	23 CFR 230A		Yes	**	**	**Projects designated by STA in setting State goals
Standardized Changed Conditions Contract Clauses	23 USC 112(e)	23 CFR 635.109		Yes	Yes	No	
Drug - Free Workplace		49 CFR 29		**	**	**	DFW certification applies to direct recipients (not construction contractors)
Publicly Owned Equipment		23 CFR 635.106	OMB Circular A-87	Yes	Yes	No	
Contractor Purchased Equipment for State Ownership	23 USC 302	23 CFR 140 49 CFR Part 18 49 CFR Section 18.3		Yes	Yes	No	
Equipment Rental Rates		48 CFR Part 31	OMB Circular A-87 FAPG NS 23 CFR 635.120	Yes	Yes	No	
Foreign Contractor and Supplier Restriction		49 CFR 30		Yes	Yes	No	
Prohibition Against Convict Produced Materials	23 USC 114(b)(2)	23 CFR 635.417		Yes	**	No	** Prohibition only applies to projects on Federal-aid highways
Patented / Proprietary Products	23 USC 112	23 CFR 635.411		Yes	Yes	No	
State Preference	23 USC 112	23 CFR 635.409		Yes	Yes	No	

Summary of Federal Requirements for NHS, Non-NHS and Service Contracts Federal Requirements							
SUBJECT	USC	CFR	OTHER LAWS	Applicability			REMARKS
				Construction Contracts		Non-Highway Construction or "Service Contracts"*	
				NHS	Non-NHS		
State Owned / Furnished/ Designated Materials	23 USC 112	23 CFR 635.407		Yes	No	No	
Public Agencies in Competition with the Private Sector	23 USC 112	23 CFR 635.112(e)		Yes	Yes	No	
Salvage Credits		49 CFR 18.36		Yes	Yes	No	
Warranty		23 CFR 635.413		Yes	No	No	
Alternate Bids		23 CFR 635.411(b)		Yes	No	No	
Incentive / Disincentive Clauses		23 CFR 635.127(d,f)		Yes	No	No	
Standard Specifications and Plans		23 CFR 630B		Yes	No	No	
Engineer's Estimate		23 CFR 630B		Yes	No	No	
Method of Construction (low bid for construction contracts)	23 USC 112(a) & (b)	23 CFR 635.104 49 CFR 18.36		Yes	Yes	No	
Owner Force Account / Cost Effective Justification		23 CFR 635B		Yes	Yes	No	
Bonding and Prequalification		23 CFR 635.110		Yes	Yes**	No	**See limitations in text
Advertising for Bids	23 USC 112	23 CFR 635.112(d) (e) (f) (g) (h), 49 CFR 18.36		Yes	**	No	**See limitations in text

Summary of Federal Requirements for NHS, Non-NHS and Service Contracts Federal Requirements							
SUBJECT	USC	CFR	OTHER LAWS	Applicability			REMARKS
				Construction Contracts		Non-Highway Construction or "Service Contracts"*	
				NHS	Non-NHS		
Bid Opening and Tabulation		23 CFR 635.113(a)		Yes	**	No	**See Text
Bid Analysis and Award of Contract	23 USC 112	23 CFR 635.114		Yes	**	No	**See Text
Contract Time		23 CFR 635.121		Yes	No	No	
Change Orders		23 CFR 635.120-121		Yes	No	No	
Claims		23 CFR 635.124		Yes	No	No	
Liquidated Damages		23 CFR 635.127		Yes	No	No	
Progress Payments		23CFR 635.122		Yes	No	No	
Project Supervision and Staffing	23 USC 114 & 302	23 CFR 635.105		Yes	Yes	No	
Subcontracting		23 CFR 635.116		Yes	No	No	
Suspension and Debarment		49 CFR 29		Yes	Yes	Yes	
Termination of Contracts		23 CFR 635.125		Yes	No	No	
Audits	23 USC 112(b)(2) (c)	49 CFR Subtitle A Part 90 48 CFR 31, Federal Acquisitions Regulations	OMB Circular A128	Yes	Yes	Yes	
Records Retention		49 CFR 18		Yes	Yes	Yes	

*Service contracts are generally contracts which do not conform with the definition of "construction" in 23 USC 101(a)(3) and are not considered to be engineering service contracts subject to 23 CFR 172. Certain intelligent transportation system projects may be considered to be service contracts if they do not "... directly facilitate and control traffic flow" (excerpt from the definition of "construction").

*Non-highway construction contracts may include Transportation Enhancement Projects which are not located on highway right-of-way and are not linked to a Federal-aid highway project (i.e. the project would not exist without another Federal-aid project). Examples include bicycle trails, historic preservation, railroad station

rehabilitation projects, etc. (see Mr. Ptak's November 12, 1996 memo.)

Locally Administered Projects (LAP) Manual

PART 1
Program Development

Chapter 6

RESERVED -

Certification Program

CHAPTER 6
CERTIFICATION PROGRAM

A certification program allows certain LPAs that have demonstrated experience successfully administering federal-aid projects to administer these projects with less direct oversight from VDOT. Similar to other states, VDOT plans to establish a certification program and additional details about that program will be incorporated into this document in the future.

Locally Administered Projects (LAP) Manual

PART 1
Program Development

Chapter 7

Compliance Assessment

Program Requirements

CHAPTER 7

COMPLIANCE ASSESSMENT PROGRAM REQUIREMENTS FOR LOCALLY ADMINISTERED PROJECTS

7.1 INTRODUCTION

LPAs must deliver their projects in compliance with federal and state laws and regulations, and in accordance with applicable VDOT policies, as outlined in the Locally Administered Projects Manual. In order to administer VDOT funded projects, LPAs sign project-specific or programmatic agreements in which they agree to allow VDOT and FHWA to perform periodic evaluations of their programs and/or projects. As part of its oversight responsibilities, VDOT monitors LPA compliance throughout project development and delivery. In addition VDOT Central Office staff evaluates a small percentage of locally administered projects to assess how well localities have met their compliance obligations and to assess the oversight conducted by District Offices.

This chapter outlines processes and procedures used to evaluate locally administered projects. The purpose of this Compliance Assessment Program is not to evaluate every locally administered project or to provide a complete picture of local compliance. Rather, it is to identify issue areas and trends among locally administered projects. The results of these evaluations can be used to target specific actions, such as the development of new guidance or training and outreach programs, which can improve the delivery of the Department's LAP program.

In addition to the compliance assessment processes outlined in this chapter, other audits may be conducted by the Office of the Inspector General, Internal Audit, the Investigation Division, or the External Construction / Audit Division in accordance with paragraph 2d of the Standard Project Administration Agreement.

7.2 ROLES AND RESPONSIBILITIES

7.2.1 Local Assistance Division

The Local Assistance Division (LAD) is responsible for coordinating and overseeing the LPA Compliance Assessment Program. LAD will coordinate with the appropriate Central Office Policy Divisions to identify projects and schedules for assessment, ensure a balanced approach across functions, localities, and project types, and to implement corrective actions, when necessary.

7.2.2 Central Office Policy Divisions

Central Office Policy Divisions, including, but not limited to Environmental, Right-of-Way, Innovative Project Delivery, Scheduling and Contracts, Location and Design, Traffic Engineering, Structure and Bridge, Materials, and Civil Rights, will provide input and recommendations for project selection and scheduling. Representatives for these Divisions make up the Compliance Assessment Team and are responsible for conducting assessments of projects, within their functional disciplines, and recommending follow-up or corrective actions, as necessary. Typically, these individuals are also members of the Local Partnership Team. LAD will provide copies of its annual compliance and assessment plan as well as the results of any assessments performed to Central Office Policy Divisions and Audit divisions.

7.2.3 District Offices

District Office contacts, typically Project Coordinators, are responsible for assisting LAD and Central Office Policy Divisions coordinate with local governments, as necessary throughout the assessment process. District offices are also responsible for providing timely, complete, and accurate responses to inquiries made by the Compliance Assessment Team.

7.2.4 Local Governments

Local governments are responsible for providing timely, complete, and accurate responses to inquiries made by VDOT. In accordance with federal regulations and as stated in Chapter 19.7, project records must be retained and made available to VDOT, on request, for not less than three years after financial closeout of a project, unless a longer retention period is programmatically required. A table of recommended records retention items is also included in Chapter 19.7.

Local governments are also responsible for implementing corrective actions when indicated by VDOT and entering into meaningful discussions with VDOT concerning applicable corrective actions, when appropriate.

7.3 PROJECT AND PROGRAM ASSESSMENTS

Beyond regular project oversight, three levels of project and program assessments are conducted to assess locally administered projects and the LAP Program: functional, project, and programmatic assessments.

7.3.3 Functional Assessments

Functional assessments, which can also be described as discipline-specific evaluations, are generally conducted independently by VDOT Policy Divisions and involve a detailed project-level assessment of compliance with that discipline's requirements. These reviews may also address the programmatic approach used by the locality to ensure compliance with that particular discipline's requirements. Other VDOT divisions may also conduct specific project, program, and financial reviews, as deemed necessary.

7.3.2 Project Specific Assessment

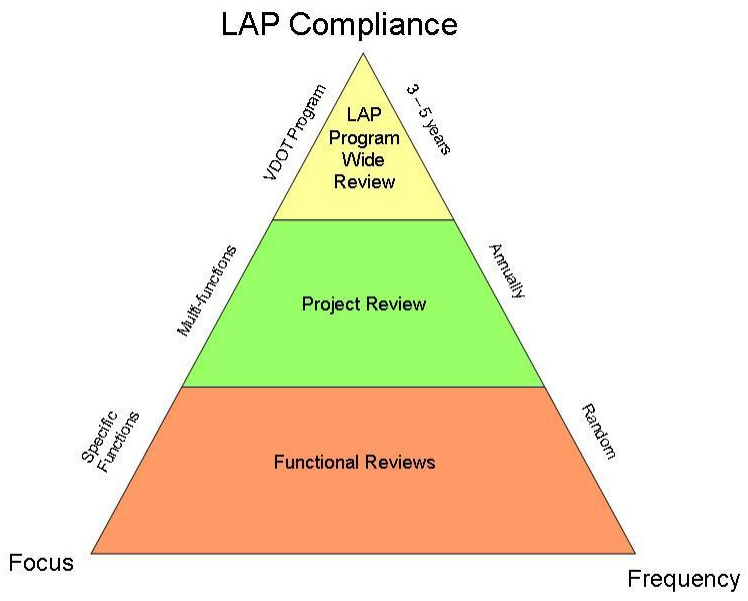
Project specific assessments involve a comprehensive review of a single project

for adherence with all applicable disciplines and are performed in a collaborative approach facilitated by the Local Assistance Division. These assessments are the primary tool for the locally administered projects compliance assessment program and are discussed in detail later in this chapter.

7.3.3 LAP Program Wide Assessments

Program-wide assessments are designed to evaluate VDOT's entire LAP program to ensure that program requirements are being met and to identify areas for improvement. Program Wide reviews are conducted by the Local Assistance Division's LAP Compliance Coordinator and FHWA and are performed every 3 – 5 years. Program Wide reviews may be triggered by specific and consistent findings or some other criteria.

The following diagram illustrates the three tiers of LAP compliance:



7.4 ANNUAL ASSESSMENT PROCESS

7.4.1 Functional Assessment Project Selection and Evaluation Process

Functional assessments are scheduled and conducted independently by Central Office Divisions. However, in order to minimize the time spent on reviews at any one locality, VDOT attempts to ensure that multiple, and separate, functional reviews for a single project or in a single locality are not conducted. In order to avoid multiple reviews, Policy Divisions notify the Local Assistance Division when functional reviews are scheduled. LAD then coordinates with other Policy Divisions to determine if they also have a need to review the project. If so, an effort to coordinate reviews will be made. This may involve scheduling the project for a comprehensive project-level review.

When functional assessments are conducted, the results of the findings are documented and shared with the Compliance Assessment Team. These findings are used to identify continuing outreach and training needs, improve program guidance, and to help identify future compliance reviews. Results of functional assessments will be communicated to localities and tracked by LAD.

7.4.2 Project Level Assessment Selection and Evaluation Process

7.4.2.1 Project Selection

Annually, the Local Assistance Division will initiate the selection of candidate projects for multi-functional project-specific reviews. Projects will be selected in August of each year, based on standardized selection criteria and recommendations from Central Office Project Development and Delivery Divisions and District Offices.

Generally, projects will be selected from a query of federally funded projects and may include projects which provide a representative sampling of various fund sources, project complexity, and locality type (urban, rural, county, city, town). Projects may be in any phase of project development and delivery, or may have been completed within the previous three years. After the initial list of candidate projects is considered, LAD will make final selections of projects to ensure the projects selected represent an appropriate distribution based on geography, project type, local government type, and other factors. Recommended projects not selected for comprehensive review may still be evaluated at the functional review level by the individual Division. The final list, along with a tentative schedule will be shared with the Divisions and Districts, for final comment and scheduling recommendations.

The number of projects selected for annual review will vary; however, a minimum sample of four to six projects will be selected for comprehensive project level reviews.

7.4.2.2 Project Level Evaluation Process

After project selection, individual project assessments are scheduled throughout the year, so that major Department activities, such as federal obligation deadlines, are avoided. Evaluations are generally “desk-reviews” where information is reviewed without making a physical visit to the locality or project under review. On occasions the desk-review may indicate a need to perform a more detailed evaluation of locality or project files which requires a site visit.

The following steps outline the typical evaluation process of an individual project.

1. Project selection / coordination with compliance assessment team members and District Office

2. Distribution of initial request to local government and District Office

3. Receipt of information from localities

    Recordation of returned information and responses to questions

    Distribution of documentation to Policy Divisions for review

4. Report of findings from Policy Divisions

    Additional information requested

    Recordation of findings

    Recommendations for Corrective Actions, if necessary

5. Additional site visit, if required

6. Notification of findings to locality

    Inclusion of requested additional information, if necessary

    Corrective action requirements and timelines, if necessary

7. Final project report distributed and filed

Project Review Questionnaires

Appendix A identifies the specific areas of review, along with standardized questions and requests for information for each functional area. Some information will be requested from the local government while other information will be requested from the District Office. Where the required data is already retained in a Departmental database, such as iPM or CEDAR, that information may be accessed directly by the Compliance Assessment Team Member.

Project Review Findings

Project reviews may result in the identification of deficiencies. Deficiencies may range from serious violations of federal and state laws or regulations to minor deviations from VDOT policies or industry standards. Depending on the severity,

a finding may require some manner of correction or resolution and, when necessary, the locality may be required to provide a corrective action plan identifying specific actions to be taken and an associated time-table.

Each finding identified will be assigned one of the following four categories:

Class I - A class I finding is the most serious. It is characterized by non-compliance with a federal or state law or regulation, where the non-compliance cannot be corrected and has resulted in significant or serious deviation from the requirements or intent of the law or regulation.

A finding of this type requires formal corrective action by the local government to resolve the finding. They may be required to document new processes to prevent the deviation from occurring again or may be prevented from administering projects in the future. A finding of this type will likely result in withdrawal of federal or state participation in project costs.

Class IIA - A class IIA deviation is characterized by one of the following:

(a) Non-compliance with federal or state law or regulation where the non-compliance cannot be corrected, but did not result in significant or serious deviation from the requirements or intent of the law or regulation (the outcome of the process was not affected); or,

(b) Non-compliance with a required policy or regulation where a waiver can be obtained or the non-compliance can be corrected.

A finding of this type may require formal corrective action from the local government to resolve the finding. They may be required to document new processes to prevent the deviation from occurring again, obtain a waiver, or correct the violation. On rare occasions, repayment of some project costs may be required.

Class IIB – These deviations are characterized by actions or non-actions which are likely to result in a violation of a required policy or non-compliance with a statute or regulation, but the violation has yet to occur.

A finding of this type may require the locality to provide a corrective action plan or provide VDOT with information indicating that the finding has been resolved, prior to proceeding with the project.

Class III - This category is characterized by actions or non-actions taken by the locality which are contrary to or do not fully conform with standard VDOT practices or industry standards; however, they are not requirements of the LAP Program.

A finding of this type does not result in any corrective action or follow-up activities, but is a recommendation for process improvement.

A report, containing a listing of all findings and requests for corrective actions will be provided to the local government after all compliance assessment team members have provided their evaluations. On occasions, particularly when additional information is necessary for specific disciplines, interim reports may be issued to the local government at the discretion of the Local Assistance Division Compliance Manager. A final report will be prepared, entered in project records and provided to the locality which will incorporate necessary corrective actions as well as the locality's response to the findings and observations listed.

Best Practices – This category corresponds to those actions, processes, and procedures which a locality may have in place that are considered to be extraordinary practices. Such findings will be communicated to the locality and District and will be documented and shared with other localities, as appropriate.

Report of Findings

Each locality will be informed in writing of the results of the review. For those reviews that result in findings, the findings will be communicated in person by the Compliance Review Team and in writing. The Local Assistance Division Compliance Coordinator will make necessary contacts to ensure corrective actions are completed in a timely manner.

The Local Assistance Division will provide an Annual Summary of the LAP Compliance Assessment Program. Corrective actions, along with a time-table for resolution, will be listed separately within the final report. This report will be provided to FHWA and published on the Local Assistance Division webpage.

7.4.3 Dispute Resolution

During the compliance review process it is possible that differences of opinion will arise when findings are identified and when corrective actions are requested. It is the goal of this program to resolve such conflicts at the lowest level possible.

When a locality disputes a finding, its representative should begin discussions informally by contacting the Local Assistance Division Compliance Manager. If informal discussions cannot resolve the issue, formal discussions should begin. The locality should provide a written statement to the Local Assistance Division Compliance Manager fully describing the project issues where there is disagreement and include the following information:

- A detailed statement of the Locality's position on the issue.
- Any backup for the position statement, including documents, maps, plans, invoices, agreement(s) (draft and/or executed), pictures, regulatory citations, and other material needed to give a full picture of the disputed issue.

Upon receiving the request, the Local Assistance Division Compliance Manager shall coordinate with the applicable compliance assessment team member(s), and the District Office representative to evaluate the locality's position statement. If a formal meeting is warranted, one will be scheduled, typically at the District Office. After consideration of all the information and in consultation with the appropriate compliance assessment team members, the Local Assistance Division Compliance Manager will prepare a response in the form of a memorandum to include the following:

- A detailed discussion of the items that are in dispute with references to sections in the Locally Administered Project Manual that support VDOT's position.
- An overview of the issue, including any additional maps, plans, invoices, agreement(s) (draft and/or executed), pictures, and other materials needed to give a full picture of the disputed issue that was not included in the Locality's request.

The above exchange of information is to be provided in a timely manner so as not to impede the ongoing delivery of projects by the Locality. .

Should the locality still dispute the finding(s), the matter may be escalated to the LAD Director for resolution. The information described above will be made available to the LAD Director along with minutes of relevant meetings held between the Locality and the compliance review team. The LAD Director will consult with the appropriate Division Directors and District staff to discuss the issues and will render a final decision.

7.4.4 LAP Program-wide Review

This review is similar to the process reviews that FHWA conducts on aspects of VDOT's program each year.

This process is intended to be a wide review and self-assessment of the primary elements of VDOT's entire Locally Administered Projects (LAP) program and the general effectiveness of the program in assuring compliance with federal requirements. LAD will continue to partner with FHWA in the performance of these self-assessments focus on existing policies, guidance, procedures, and training and oversight activities along with the general understanding of federal expectations by both VDOT and local governments.

Objective of this process review:

- Evaluate VDOT's oversight program for locally administered projects;
- Evaluate the effectiveness of the guidance provide to local governments and to all VDOT staff, Central Office and District Offices;
- Assess the general knowledge of VDOT staff and local governments regarding federal requirements for the administration of federal-aid projects;
- Identify potential areas of process and program improvement, to include specific training or guidance needs.
- Identify specific items which may require immediate corrective/action; and,
- Identify good management practices that could be implemented state-wide.

The Program Wide review is intended to provide VDOT and FHWA with random and regular feedback of program performance and success as well as a measure of the quality of guidance provided to LAP participants.

APPENDIX A

DISCIPLINE QUESTIONAIRES AND DOCUMENTATION NEEDS

Please provide the following selected documents or information associated with the subject project. If not applicable please provide explanation.

☐ Final Request for Proposal (RFP) for consultant services

☐ RFP newspaper advertisement, if not available, proof of publications

☐ Professional Consultant Procurement Selection criteria and final score sheets for all firms submitting proposals

☐ Negotiation documentation (short list and a copy of letters inviting the firms into negotiations or other documentation of which firms were interviewed)

☐ Memorandum of Agreement/Consultant Contract

☐ Supporting documentation for Invoice ##

☐ Copy of appraisal and appraisal review for parcel ##

☐ Negotiations Report with property owners including the Offer letter for parcel ##

☐ General Relocation Notice(s) for parcel ##

☐ Final IFB

☐ Materials Notebook

☐ Inspector certification

☐ Daily diary – documentation for one day during the week of _____

Please respond, in brief answers, to the following project related questions.

1. Provide the name and title of the local government (not consultant) project manager for this project. If this responsibility transitions between design and construction, please provide both names.

2. Is this individual a full time government employee?

3. If there were right of way acquisitions involved in this project, did you use in-house staff or were consultants procured for any aspects of the right of way process (appraisal, negotiation, relocation, etc.). Please provide a short explanation, if necessary.

4. Provide the name of the responsible charge engineer during design and construction of this project and is the individual a local government employee (not a consultant or contract staff)? If these responsibilities transition between design and construction, please provide both names.

5. Is this individual a licensed engineer in the state of Virginia?

6. Provide the name and title of the person within the locality that conducts the Labor Compliance Reviews.

7. Describe the training this person has undergone that would enable him/her to identify potential problem situations in the area of labor compliance.

8. Identify the party responsible for compiling and maintaining environmental documentation for an administrative record for this project.

9. Describe how the administrative records for the environmental document for this project are being maintained?

10. If there were environmental commitments for this project, how did the locality ensure full implementation of those commitments? How were the commitments communicated to both locality and VDOT coordinators?

11. Were there any changes in project scope that impacted the original project footprint? If so, how were they documented and what communication was made to VDOT regarding the change.

Locally Administered Projects (LAP) Manual

PART 1
Program Development
Chapter 8
Project Initiation and Authorization

CHAPTER 8
PROJECT INITIATION AND AUTHORIZATION

SUMMARY

Ensuring that a project is funded appropriately and included in all required financing plans as well as the LPA's Comprehensive Plan and Capital Improvement Plan is essential for avoiding unnecessary project delays. For federal-aid projects, the LPA is responsible for coordinating with the Metropolitan Planning Organization (MPO) and VDOT so that the project's correct phase is included in the approved State Transportation Improvement Plan (STIP), and where appropriate, in the Metropolitan Planning Organization's (MPO's) Financially Constrained Long Range Transportation Plan, and in the MPO's Transportation Improvement Program (TIP). Federal-aid projects must also be included in either the Secondary Six-Year Plan (SSYP) or the CTB's Six Year Improvement Program (SYIP).

Most federal funds have expiration dates for their obligation, which means that the funds will lapse at a specified time. For most funding programs, the expiration date is three years after the year the funds are first allocated by the FHWA. When a particular phase of a federal project is authorized by agreement with FHWA, all of the project funding associated with that authorization is considered obligated even though the funds have not been spent. However, in accordance with 23 CFR Part 630, projects with unexpended balances that have been inactive for extended periods of time, will be flagged and may have their federal funds de-obligated to ensure federal funds are being effectively utilized.

It is incumbent on each recipient of federal aid to implement projects in a timely manner in order to prevent a lapse of funding. A lapse of funding in any LPA may have a detrimental effect on the entire state. For example, a state that does not expend its original federal apportionment in any area is not eligible for additional federal discretionary funds.

8.1 OVERVIEW OF THE SYSTEM ALLOCATION PROCESS

Transportation funding flows to local governments in a number of different ways. The majority of construction funding is made available through system allocations as part of the annual Six Year Improvement Program and Secondary Six Year Improvement Plan development process. The Code of Virginia establishes how transportation funding is divided between the different highway systems and localities. Section 33.1-23.1 of the Code of Virginia provides the following progression for allocation of funding (including federal funds):

- Maintenance first – Interstate, Primary, Secondary, and payments to local governments (cities, towns, and withdrawn counties).
- Administrative and general expenses (as defined by Code).
- Off-the-top allocations
    - Unpaved roads 5.67 percent (Section 33.1-23.1:1), etc.
- Interstate funding (Section 33.1-23.1:2)
- System allocations
    - Primary System 40 percent (VA Code §33.1-23.2)
        - Allocated between VDOT's 9 construction districts based on vehicle miles traveled, lane mileage, needs factor
    - Urban System 30 percent (VA Code §33.1-23.3)
        - Allocated to cities/towns in the urban system based on population
    - Secondary System 30 percent (VA Code §33.1-23.4)
        - Allocated to counties based on population and land area

8.2 DEVELOPMENT OF THE SIX YEAR IMPROVEMENT PROGRAM

The Six Year Improvement Program allocates funds for transportation projects proposed for construction, development, or study in the next six years based on the CTB's policy and goals. The program is updated annually. Typically, the CTB conducts hearings in the fall of each year to gather public and local government input on priorities for transportation funding. These meetings provide local

governments with an opportunity to have input on priorities for the Interstate and Primary systems.

Cities and towns in the Urban System also establish or reconfirm their priorities for urban system construction funding on an annual basis. This is done in the fall of each year and documentation of the local priorities is due to the VDOT District Designee (formerly the Urban Program Manager) by December 1. Should the LPA choose to add a project to their program, they must first conduct a public hearing.

Counties also have a programming process that is coordinated between the local Board of Supervisors and VDOT's Residency Administrator. The Residency Administrator works with the Board of Supervisors to establish or reconfirm their priorities for the Secondary Six-Year Plan (SSYP). Each year the Residency Administrator attends a meeting of the Board of Supervisors for the purpose of preparing a budget for the expenditure of secondary road improvement funds for the next fiscal year.

8.3 STIP DEVELOPMENT

All federal-aid projects are required to be included in the State Transportation Improvement Program (STIP). This includes all projects that will be developed as federal-aid eligible, including those that will be authorized as advance construction (AC) (see section 8.9) for future federal conversion. The STIP is a multi-year intermodal program of all FHWA/Federal Transit Administration (FTA) funded transportation projects.

The STIP contains all capital and non-capital projects or phases of projects that will utilize federal funding over a four-year period. It also includes regionally significant transportation projects requiring federal approval or permits even though no federal funds may be used for construction.

The STIP must be financially constrained by year which is determined by comparing federal funding available to project allocations. For a project to be included in the STIP, it must be consistent with the financially-constrained long-range (20 year) transportation plans.

In MPO areas, project selection and TIP approval is done by the MPO and State. TIP projects are then included in the SYIP or SSYP and STIP. Outside of MPO areas, project selection is done by the state in consultation with appropriate local officials.

Other projects included in the STIP are those funded by special federal-funding programs such as the Forest Highway and Public Lands Discretionary. These projects may not be included in the SYIP or SSYP at present, but it has been determined that all construction projects receiving federal aid must be included in future STIPs.

8.4 COORDINATION WITH METROPOLITAN PLANNING ORGANIZATIONS

By federal statute, Metropolitan Planning Organizations (MPOs) are established in areas with an urbanized population greater than 50,000 based on the census. There are currently 14 MPOs in the Commonwealth.

MPOs are responsible for developing, in cooperation with the state and transit operators, a long-range transportation plan and a Transportation Improvement Program (TIP) that is consistent with the long-range plan. All projects in an MPO area that will utilize federal highway or transit funding must be included in the long-range plan and the TIP in order to proceed. Both the long-range plan and TIP must be financially constrained. Each MPO has an established process and schedule for updating and/or modifying their plans and program.

MPOs with populations over 200,000 are designated as Transportation Management Areas (TMAs). TMAs have project selection authority for Regional Surface Transportation Program (RSTP) and Congestion Management/Air Quality (CMAQ) funds, in consultation with the state. These funds are programmed in the MPO TIP and must also be included in the SYIP or SSYP and STIP.

The Clean Air Act requires that any area that does not meet the air quality standards for designated pollutants be designated as "non-attainment." Once a region is designated "non attainment", conformity must be demonstrated as part of the MPO planning process. Transportation conformity ensures that Federal funding and approval goes to those transportation activities that are consistent with air quality goals, and can have a significant impact on the transportation planning process. If transportation conformity cannot be determined, projects and programs may be delayed.

8.5 TYPES OF FEDERAL FUNDING

The system allocation (primary, secondary, or urban) includes both federal and state funding. Eligibility for the various federal funding categories is established by Federal law and regulation. For additional information on the federal funding types and eligibility, please refer to the federal-aid funding guide at: http://www.fhwa.dot.gov/federalaid/projects.cfm

Some federal funds are not included in the system allocation, but are instead available via application to the local MPO (RSTP/CMAQ), application to VDOT (HSIP, Enhancement, Safe Routes to School) or through discretionary allocation by the CTB (Bridge, NHS, Equity Bonus). If you have questions regarding eligibility and availability of federal funding for your project, please contact your local VDOT Urban Program Manager or Residency Administrator.

8.6 SPECIAL FUNDING PROGRAMS

There are a number of special funding programs that are available to local governments through VDOT and the MPOs. These include both federal and state aid and many of these are managed by VDOT's Local Assistance Division. Additional information can be found on our Web site at http://www.virginiadot.org/business/local-assistance.asp

The Virginia Transportation Research Council has summarized the resources available in their report on alternative funding sources available to Virginia localities. The report is available at the following link: http://www.virginiadot.org/vtrc/main/online%5Freports/pdf/06-r17.pdf

8.7 FEDERAL OBLIGATION AND FEDERAL STRATEGY

Obligation authority is the amount of federal funds that a state commits to put under contract with FHWA within a federal fiscal year. Obligation of funds is a commitment by FHWA to reimburse the state for eligible project expenses. States must obligate all federal funds that are available to them in a federal fiscal year. If the state cannot obligate all available funding it is redistributed to other states. If the state can demonstrate that it can utilize all available obligation authority, then the state may receive obligation authority released by other states.

A federal strategy is developed annually to demonstrate how Virginia plans to fulfill its obligation authority (OA). The Strategy is based on activity begin dates and allocations programmed in the SYIP and SSYP. The Strategy establishes annual and monthly goals for Virginia. Reports are provided to the FHWA monthly. All projects with activity begin dates (by phase) are identified in the Strategy, including the planned obligations for that phase. The districts/divisions are responsible to provide the required information necessary to ensure funds are authorized to meet the dates set.

8.8 PROJECT PROGRESS

It is incumbent upon those localities that are administering federal-aid highway projects to diligently advance those projects in order to meet project schedules as well as state and federal obligation requirements. Failure to advance projects in a timely manner and meet established expenditure schedules may result in loss of project funding by localities. These requirements are included in the standard Federal-aid Project Administration Agreement.

8.8.1 Congestion Mitigation and Air Quality Improvement Projects

Localities receiving CMAQ funds shall ensure that the funds for those projects are obligated within 24 months of allocation and that the project is advanced so that the funds are fully expended within 48 months of their obligation. If the CMAQ funds are not expended within 48 months of their obligation, the CTB may re-allocate any remaining funds to any other eligible project eligible under 23 USC 149. Localities are responsible for funding any amount in excess of the allocation.

8.8.2 Regional Surface Transportation Program Projects

Localities receiving RSTP funds shall ensure that the funds for those projects are obligated within 12 months of allocation and that the project is advanced such that the funds are fully expended within 36 months of their obligation. If the RSTP funds are not expended within 36 months of their obligation, the CTB may rescind any required matching funds for the federal funds. Localities are responsible for funding any amount in excess of the allocation.

8.8.3 Highway Safety Improvement Program Projects

Localities receiving HSIP funds shall ensure that the funds for those projects are obligated within 12 months of allocation and that the project is advanced such that the funds are fully expended within 36 months of their obligation. If the HSIP funds are not expended within 36 months of their obligation, the CTB may

rescind any required matching funds for the federal funds. Localities are responsible for funding any amount in excess of the allocation.

8.8.4 References

Congestion Mitigation Air Quality Program – 23USC149

Regional Surface Transportation Program – 23USC133(b)

Highway Safety Improvement Program – 23USC148

FY 11 Budget Appropriation Language – Item 436 (B3 & B5)

8.9 ADVANCE CONSTRUCTION

At times, federal funds may not be available for obligation, but may be anticipated with future budget or administrative actions. If a local government wishes to proceed with its own funds and still establish eligibility for possible future federal reimbursement, it may request an advance construction authorization. The local government must have sufficient funds available to cover project expenses until federal funds become available for reimbursement and must consider the risk that federal aid may never become available. This authorization, known as AC, establishes the date for the beginning of reimbursable activities. When and if federal funds become available, the project is “converted” and funds are obligated. After this is done, the necessary agreements can be processed and invoices prepared for reimbursement. Projects approved for advanced construction must be developed in accordance with all FHWA requirements.

VDOT’s policy is to develop all federally eligible projects in the SYIP and SSYP without identified federal aid as advance construction projects. SYIP and SSYP project are granted exceptions to this policy on a project-specific basis. Special state-aid projects, such as revenue sharing and access projects, are not included in the SYIP or SSYP and are programmatically exempted from this policy.

Locally Administered Projects (LAP) Manual

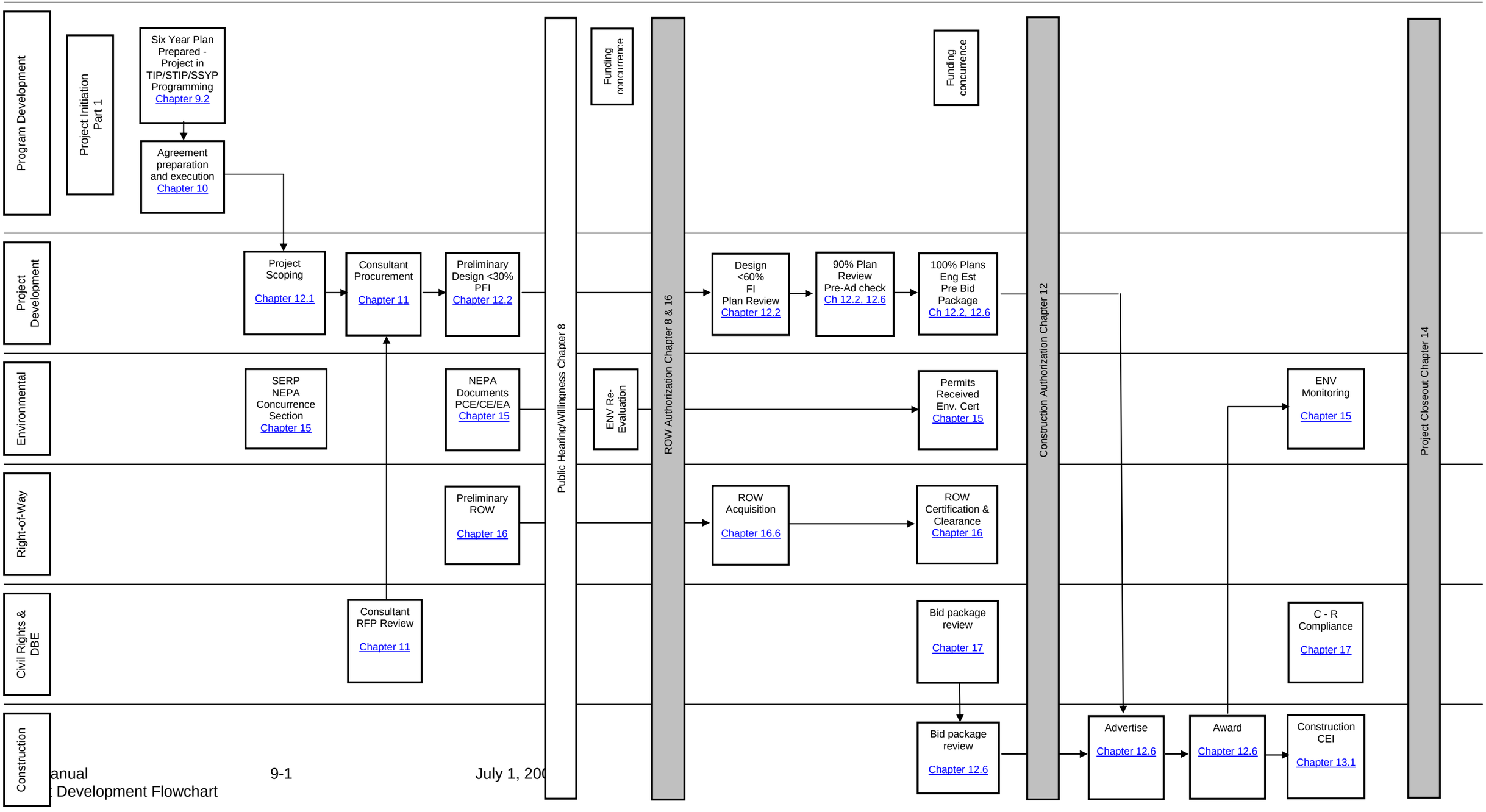
PART 1
Program Development

Chapter 9

Project Development

Overview / Summary

Locally Administered Projects Development Process - Federal Funds, Typical



CHAPTER 9 - PROJECT DEVELOPMENT OVERVIEW/SUMMARY

This chapter includes the following topics

9.1 Project Development Summary
9.2 Project Authorizations
9.3 Project Development Process
9.4 VDOT Project Oversight
9.4.1 Communications
9.4.2 VDOT Risk and Project Oversight
Appendix 9-A Federal-Aid and State-Aid Checklists
Appendix 9-B Local Government Administered Projects; Oversight Levels
Appendix 9-C Project Risk and VDOT Oversight Evaluation

9.1 PROJECT DEVELOPMENT INTRODUCTION

VDOT, as required by federal law, is responsible for oversight of federal-aid transportation projects in the Commonwealth. Accordingly, VDOT is responsible for and becomes accountable to the FHWA for the proper use of federal-aid highway funds. This responsibility is further emphasized in the VDOT-FHWA 2007 SAFETEA-LU Program Efficiencies Agreement.

In order to administer any transportation project funded through VDOT allocations, LPAs must generally enter into a Project Administration Agreement (PAA) with VDOT. Project Administration consists of project development and project delivery phases; with project design and right of way acquisition performed during the project development phase and construction, construction administration, and project close-out performed within the project delivery phase. VDOT's project development (PDP) process flow chart outlines the activities which may take place concurrently from project scoping through construction advertisement. The PDP flow chart is an excellent reference guide that can be of assistance to LPAs administering projects. **However, the LPA is not required to follow VDOT's PDP process.** This manual identifies minimum activities which must be completed for LPA administered projects.

9.2 PROJECT AUTHORIZATIONS

Prior to beginning reimbursable work, the project and each project phase (Preliminary Engineering, Right of Way Acquisition, Advertisement, and Award) must be formally authorized (approved) by the FHWA to be eligible for reimbursement. This authorization MUST be received prior to beginning any work to be reimbursed with federal aid.

State-aid projects which are not developed as eligible for federal aid will receive a single funding authorization and individual phase authorizations are not necessary.

Requirements to obtain federal authorization approval:

Preliminary Engineering

- Agreement Executed
- Project phase(s) included in the STIP/TIP
- Allocations must be programmed

Right of Way

- Project included in STIP/TIP
- Allocations programmed
- Approved environmental document,
- Public involvement process complete,
- Right of Way Estimate Provided (see 12.3.4.2 for guidance)
- Right of Way plans Provided
- Environmental reevaluation completed

Construction Advertisement and Award (two authorizations)

- Project included STIP/TIP
- Allocations programmed and funding verified,
- An approved environmental NEPA document and all identified environmental commitments have been included into the plans and proposals.
- All permits have been obtained.
- All design is in accordance with appropriate design criteria.
- All Right of Way is clear or will be clear prior to project execution, in accordance with the Uniform Relocation Act
- All Utility and Railroad relocations and certifications have been included appropriately, or satisfactory arrangements have been made.
- Public Involvement requirements have been met.
- All appropriate federal-aid project information, including Minimum Wage Rates, EEO provisions, and the federal 1273 form has been included.
- Hazardous wastes have been identified where appropriate and provisions are provided within the proposal for their safe disposal.

9.3 PROJECT DEVELOPMENT PROCESS

Figure 9-1 provides a generalized flow-chart for the Locally Administered Project Development Process. It provides links to chapters in this Manual that further describe the processes identified on the flow-chart.

Appendix 9-A contains federal-aid and state-aid Locally Administered Project checklists for determining which primary requirements need to be addressed during project administration. The LPA Project Manager and VDOT's Project Coordinator are required to jointly review and prepare the checklist for federal aid projects soon after the project administration agreement is executed by VDOT. The federal aid checklist is required to be completed and kept on file for future review.

The following provides a summary of these processes and emphasizes those necessary for a federal-aid project.

Programming and Funding

- The LPA staff, working with the VDOT Residency and the County Board of Supervisors or Urban Program Managers and City/Town Council, selects projects to be programmed in the SYIP. The SYIP serves as the framework for allocation of Federal-aid funds to projects. The first year of the SSYP serves as the active program year and the subsequent years outline funding that is planned, however all funding is subject to appropriation by the CTB. See Chapter 8 for additional details.

- The SYIP also includes a number of federal fund program areas that are not necessarily programmed at the LPA level or through formula allocations, but could be used for a locally administered project. These program areas include Highway Safety, Rail Safety, Safe Routes to Schools, High Risk Rural Roads, Forest Highway-Regional STP, CMAQ, and Public Lands as well as other Federal discretionary funds.

- Often local governments identify transportation projects within their own Capital Improvement Program and will supplement local funding with state programs intended to support and encourage local participation in the local highway improvement program. These projects are essentially local projects and are not necessarily included in the SYIP. State funding programs used to support this include Coal Severance, Revenue Sharing, and Access (Economic Development, Airport and Recreational) programs.

Agreement Preparation and Execution

- Before an agreement is prepared, the LPA is required to submit a RtA form for most projects. The RtA serves as the LPA's request and VDOT's concurrence for LPA administration of a project. The Project Administration Agreement (PAA) establishes funding and specific obligations unique to a project.
  Additional information regarding the preparation of project administration agreements is detailed in Chapter 10.

Consultant Procurement

- If the LPA does not have in-house design staff, it will need to acquire design consulting services. These services must be procured in accordance with the Virginia Public Procurement Act and/or applicable federal requirements. Consultant procurement requirements are outlined in Chapter 11.

Project Scoping

- LPA staff and VDOT staff participate in a scoping process where major aspects of the project are determined including alignments, structures and bridges, environmental requirements, permits, right of way and utility needs/conflicts. In addition, specific design requirements and project limits are determined. Project scoping documentation is completed and LPA staff and the VDOT Project Coordinator concur with subsequent steps. The project scoping process is further detailed in Chapter 12.

Environmental Review Processes

- For most LAPs, the LPA is responsible for preparation and completion of federal environmental documentation, although VDOT is required to approve these for FHWA. The process begins with the LPA performing early coordination with State agencies and determining the necessary environmental assessments and, with VDOT's concurrence, the level of NEPA documentation associated with the project. The LPA is responsible for the preparation of all required documents, reports and supporting materials in order to meet NEPA requirements; however, VDOT retains final approval authority for the NEPA "document." In addition, the LPA is responsible for obtaining any necessary environmental permits that may be applicable to the project. The Environmental review process is discussed in detail in Chapter 15.

Preliminary Design

- The LPA is responsible for assuring that the project is designed in conformance with local, AASHTO, VDOT, and federal design standards, as applicable. For complex projects, the LPA is generally required to submit preliminary design plans at approximately 30 percent, 60 percent and 90 percent design stage. The 30 percent submittal normally takes place concurrently with the Preliminary Field Inspection (PFI) while the 60 percent submittal normally is concurrent with the Field Inspection (FI) and submittal of Right of Way Plans. For less complex projects or for highly experienced LPAs, VDOT's project development oversight can be minimized and fewer design review submittals or project progress meetings may be necessary. Chapter 12 discusses the design process in detail.

Public Involvement/Public Hearings

- The LPA is responsible for determining the level of public participation required in conformance with State and FHWA laws and regulations, as applicable. At or about the 30 percent design stage, the LPA is required to

provide the public an opportunity to review and comment on the design proposal for the project. Chapter 12 discusses Public Involvement requirements.

Right of Way Authorization and Certification

- Prior to the LPA initiating any acquisition of Right of Way for federal-aid projects, federal Authorization must be obtained. All right of way acquisition and relocation must be accomplished in accordance with the Uniform Relocation Assistance and Real property Acquisition Act of 1970 and amendments. The VDOT Project Coordinator will coordinate with appropriate VDOT staff to obtain ROW authorization. Prior to advertisement for federal-aid projects, the LPA must provide a certification statement for their Right of Way process. Chapter 16 provides greater detail on the Right of Way Acquisition process.

Utilities

- The LPA is responsible for identifying and/or relocating utilities that are in conflict with the project in conformance with Federal requirements. Volume 2 of VDOT's Right of Way and Utilities Manual provides a detailed discussion of the requirements. A copy of the manual can be obtained from the VDOT Project Coordinator. See Chapter 16 for additional details.

Plans, Specifications, and Estimates (PS&E) Review/Approval

- The PS&E package includes all items necessary to obtain federal authorization to advertise for bids. The LPA is responsible for the preparation of all advertisement and bid documents, which includes special provisions, construction plans, and the engineer's estimate. The LPA must also submit Right of Way and Environmental Clearances prior to advertisement. VDOT is responsible for the review of these documents and providing the LPA with necessary guidance leading to conformance with state and federal requirements. Chapter 12 provides details of PS&E submittal requirements.

Construction Authorization

- Federal Authorization must first be obtained prior to advertisement. LPAs must not advertise projects until federal authorization is received. Chapter 12 provides greater detail on the Federal Construction Authorization process.

Civil Rights

- Bid proposals for federal-aid projects are reviewed by the Civil Rights Division for compliance with federal requirements as well as the establishment of DBE goals. Chapter 17 provides a broad discussion of VDOT's Civil Rights process and requirements.

Advertisement/Award

- The LPA is responsible for the proper advertisement of bids for the project. VDOT's project coordinator can provide assistance to the LPA in this process; however, it is the LPAs responsibility to meet both Virginia Public Procurement Act requirements and Federal requirements. Chapter 12 provides an expanded discussion of the advertisement and award process.

Construction

- The LPA is responsible for assuring that the project is built in accordance with the contract documents and specifications as approved by VDOT. Construction administration and CEI can be performed by in-house staff or by contract. However, a professional engineer must oversee the construction of the project. The LPA must also provide a local government employee to be in responsible charge of the project. These may or may not be the same person. Environmental monitoring of the project to assure that all federal environmental commitments associated with NEPA documentation must be included within the scope of construction activities. Local governments are solely responsible for regulatory compliance with all environmental laws and permit conditions, regardless

of funding source. The LPA is also responsible for assuring contractor compliance with Civil Rights requirements of the project. Construction Administration is further discussed in Chapter 13, while Environmental Monitoring and Civil Rights Compliance are contained in Chapters 15 and 17, respectively.

9.4 VDOT PROJECT OVERSIGHT

9.4.1 Communications

The effective delivery of transportation projects requires clear and effective communication between the LPA Project manager and VDOT's Project Coordinator. A communications plan should be discussed near the beginning of the project. A "formal" plan is not necessary, but there should be a clear understanding regarding the frequency of communication. LPA project managers are encouraged to contact VDOT Project Coordinators whenever there is a need for clarification of VDOT expectations or federal-aid requirements. Regular progress meetings should be scheduled and held. It is during the progress meetings that the LPA's staff and VDOT's oversight staff can discuss items of concern that may have been observed and remedies developed. The meetings also serve as an opportunity for VDOT staff to communicate project expectations to the LPA and its representatives. Constant and effective communication reduces the inherent risk that exists with all transportation projects.

Unforeseen issues may come up during the development or construction of a project. **The LPA should never hesitate to contact the VDOT project coordinator as potential problems are identified.** Early coordination can help ensure projects stay on schedule. In many cases similar conflicts may have been previously addressed by VDOT staff and a solution for addressing it may be close at hand.

9.4.2 VDOT Risk and Project Oversight

Soon after the LPA has received concurrence to administer the project, the VDOT PC should determine the level of VDOT oversight which will be required. The level of VDOT involvement and oversight is determined by a range of factors including, but not limited to, project complexity, highway system, project funding, and LPA experience. Federal-aid increases project risk as there are additional project requirements that an LPA may not necessarily be familiar or experienced with. Additionally, FHWA holds VDOT accountable for project delivery, with the possibility of financial non-participation for significant issues of noncompliance. In contrast, risks to VDOT on state-aid projects, particularly those in localities maintaining their own system, is minimal. VDOT's oversight can be focused on those activities that directly impact VDOT, such as design review and construction administration for roads that will be maintained by VDOT. Principles governing VDOT's oversight expectations are outlined in Appendix 9-B.

The exact level of VDOT involvement is determined by the VDOT Project Coordinator in consultation with other VDOT staff and the LPA, and will directly impact VDOT costs to the project. In order to assist in this determination, VDOT has developed a risk assessment method that may be used by the VDOT Project Coordinator to establish an expected level of oversight. Use of this method will result in a score that provides a generalized analysis of project oversight and is described below. This method is described further in Appendix 9-C.

Since non federal-aid projects will be certified by local governments using the State-aid Certification, this risk assessment method is primarily applicable to federal-aid projects. However, the risk assessment method provides a foundation for VDOT oversight of plan review and construction oversight of State-aid projects which will be maintained by VDOT. More detailed discussion of project oversight during construction is found in Chapter 13.

VDOT will charge oversight costs to the project. An estimate of VDOT charges, to include general oversight activities necessary, will be provided to the LPA during the preparation of the Project Administration Agreement and will be refined soon after the scoping process. Oversight costs will include, but are not limited to, providing guidance, reviewing plans and documents, attending coordination meetings, providing authorization approvals, and other project associated activities. As a general rule, oversight costs for federal-aid projects that do not require unique project support by VDOT staff, range between 3 percent and 5 percent of the construction estimate for Project Development (PE and RW phases) and 1 percent to 3 percent of the construction estimate for Project Development (CN phase). These percentages are only guidelines and should be used for preliminary estimating purposes by the LPA and VDOT. VDOT will provide a detailed project billing report upon request by the LPA.

Appendix 9-A

Federal-aid and State-aid Checklists

Federal-aid Project Checklist

Required	Complete	Task Name	Chapter Reference
		Project Programming and Initiation	
☐	☐	Project and Funding in STIP and TIP (where applicable)	
☐	☐	Local Government Resolution (Urban Localities)	
☐	☐	Request to Administer Form	
☐	☐	Project Administration Agreement (updated when total reimbursable costs change and prior to Construction)	
☐	☐	*PE Phase Authorized*	
☐	☐	PCES Estimates Updated every 90 days during project development	
☐	☐	Project Scoping Report	
☐	☐	EQ-429/State Environmental Review Process (SERP) for projects ≥ $500,000	
☐	☐	Consultant Selection; Pre-Award Audit	
☐	☐	NEPA Level of Documentation Concurrence	
☐	☐	NEPA Documentation	
☐	☐	Bridge “touch-down” points approved (when applicable)	
☐	☐	30% Plan Submittal	
☐	☐	Design Exception/Variance Requests	
☐	☐	Value Engineering for Projects over $5 M	
☐	☐	60% Plan Submittal	
☐	☐	Right of Way Plan Review	
☐	☐	Public Hearing/Posting of Willingness	
☐	☐	Design and Public Hearing Resolution	
☐	☐	NEPA R/W Reevaluation	
☐	☐	Project RW listed in STIP and estimates are current	
☐	☐	*Right of Way Authorization*	
☐	☐	Submit Final RW Plans, Cost Estimate including breakdown of Utilities, and Title Sheet	
☐	☐	Complete RW and Utilities Checklist, RW-301	
☐	☐	LPA performs final QA/QC on plans prior to submittal to VDOT for Advertisement Authorization	
☐	☐	Environmental Re-evaluation at PS&E (EQ-200); Environmental Certification (EQ-103)	
		Advertisement/Construction Authorization	
☐	☐	RW Acquisition completed	
☐	☐	Utility relocation completed	
☐	☐	Water quality permits/finalize coordination with environmental regulatory agencies	
☐	☐	Project Construction listed in STIP and estimates are current	
☐	☐	Final Plan, Specifications and Estimates Submitted for VDOT approval DBE Goals	
☐	☐	IFB and Contract Documents	
☐	☐	Publicly Advertise Project/Federal-aid Contracts must use VDOT Pre-qualified vendors	
☐	☐	Public Opening of Bid/Bid Tabulations/Evaluation of DBE Goals (good faith efforts)	
☐	☐	Federal Criteria for Award Certification (see Appx 12.6B)	

☐	☐	Contract Award Information submitted to VDOT for concurrence to award	
☐	☐	Concurrence to award by CTB or Commissioner	
☐	☐	*Award Authorization*	
☐	☐	City/State Agreement or Modification of Project Agreement	
☐	☐	Include Project in Dashboard	
☐	☐	Preconstruction conference	
☐	☐	Materials Certifications /Project Records	
☐	☐	DBE/OJT Documentation	
☐	☐	Change Orders submitted for approval	
☐	☐	Final Inspection Reports	
☐	☐	Notification of Project Completion	
☐	☐	Final Acceptance Inspection	
☐	☐	LAP C-5 submitted/Project Closed	
☐	☐	Final Invoice	

VDOT Project Coordinator: _____

_____ _____
Signature Date

LPA Project Manager: _____

_____ _____
Signature Date

Once the checklist has been completed a copy shall be filed with the Project File

State-aid Project Checklist

Required	Complete	Task Name	Chapter Reference
☐	☐	Local Government Resolution (Urban Localities)	
☐	☐	Request to Administer Form	
☐	☐	Project Administration Agreement (updated when total reimbursable costs change and prior to Construction)	
		Project State Authorization	
☐	☐	EQ-429 / State Environmental Review Process (SERP); construction projects ≥ $500,000)	
☐	☐	Plan Submittals for VDOT maintained highways	
☐	☐	Design Exception Requests	
☐	☐	Value Engineering for Projects over $5 M	
☐	☐	Right of Way Plan Review for sufficient R/W for VDOT maintained highways	
☐	☐	RW Acquisition completed	
☐	☐	Utility relocation completed	
☐	☐	Submission of Project State-aid Certification Form	
☐	☐	Contract Award Information submitted to VDOT for concurrence to award	
☐	☐	Concurrence to award by CTB or Commissioner	
		Award Authorization	
☐	☐	City/State Agreement or Modification of Project Agreement	
☐	☐	Include Project in Dashboard - SYIP / SSYP Projects	
☐	☐	Materials Certifications /Project Records – VDOT maintained projects	
☐	☐	Final Inspection Reports, VDOT Maintained	
☐	☐	Notification of Project Completion	
☐	☐	Final Acceptance Inspection, VDOT Maintained	
☐	☐	LAP C-5 submitted / Project Closed	
☐	☐	Final Invoice	

VDOT Project Coordinator: _____

_____ _____
Signature Date

LPA Project Manager: _____

_____ _____
Signature Date

Appendix 9-B

Local Government Administered Projects; Oversight Levels

Principles governing requirements/expectations for Local Governments

I Federal - Aid (NHS/FO)

- *Relatively rare with LPAs.*
- *All VDOT-approved documents/procedures must be met.*

II Federal - Aid (non-NHS)

- *VDOT ensures compliance with federal requirements (e.g. Civil Rights, Buy America, ADA, NEPA, etc.) throughout project.*
- *Flexibilities available, but those flexibilities must be documented and approved by VDOT.*
- *FHWA will review/approve the revised Manual for LAPs.*
- *Post-project compliance reviews supplement oversight during project development.*

III State - Aid/VDOT maintained

- *VDOT provides oversight to ensure a safe and quality project is completed and focuses efforts on long-term liabilities to VDOT.*
- *LPA is responsible for all phases of project development/delivery, with minimal oversight from VDOT.*
- *The responsibility of other activities lies with the Local Government and receives minimal oversight from VDOT.*
- *Local Governments will certify their compliance with all applicable laws/regulations.*
- *VDOT will conduct random post-project compliance reviews.*
- *Provides for focused oversight and optimal resource management on those activities most impacting VDOT.*

IV State - Aid/Locally maintained

- *VDOT has a responsibility to ensure the funds are used for their intended purpose and oversight during project development/delivery is limited.*
- *LPA is solely responsible for all phases of project development/delivery.*
- *Local Governments have vested interest in their own highway system and are accountable to their constituents.*
- *Local Governments will be provided maximum flexibility to administer projects in manner that best fits their needs.*
- *Local Governments are already required to meet federal and state laws and regulations and are responsible to regulatory agencies.*
- *VDOT oversight/support limited to technical support, financial reporting, and performance measures.*
- *Local Governments will certify their compliance with all applicable laws/regulations.*
- *VDOT will conduct random post-project compliance reviews.*
- *Provides for focused oversight and optimal resource management on those activities most impacting VDOT.*

Appendix 9-C
Project Risk and VDOT Oversight Evaluation

VDOT's project risk and oversight assessment method requires the VDOT Project Coordinator to identify applicable project elements from Table 1, below, which affect the level of risk. By summing the weighted values for each selected element, a risk factor is determined. That risk factor correlates to an anticipated level of oversight found in Table 2

Element	**Value (factor)**	**Check Elements That Apply**	**Total Factor per Element**
Federal Oversight	20		
National Highway System	20		
Funding			
Federal Funded (non-Enhancement)	15		
State Funded	10		
Federal Enhancement (Impacts R/W)	7		
Federal Enhancement (Off R/W)	1		
Completed Project Maintenance			
State Maintained Project	10		
LPA Maintained Project	2		
Project Category *			
Category I	2		
Category II	5		
Category III, IV, V	10		
LPA Experience Administering Project			
Low Level	15		
Intermediate Level	10		
High Level	5		
Factor Total			

Table 1 – Project Risk Assessment
**** See VDOT Construction Oversight Guide, Appendix B, for Category Definitions***

Level of Oversight	**Range of Factor Total**	
High (H)	> 45	
Moderate (M)	25-55	
Low (L)	< 35	

Table 2 – Oversight Assessment

In general terms, the following table illustrates the characteristics of projects at the three levels of oversight.

Oversight Level	**Impact/Probability**
High (H)	Significant impact on infrastructure due to non-compliance - Significant effects to quality of construction, cost and schedule; High risk of non-compliance resulting in loss of funding or regulatory agency action
Moderate (M)	Moderate impact on infrastructure due to non-compliance - Moderate effects to quality of construction, cost and schedule; Moderate probability of non-compliance
Low (L)	Minimal impact on infrastructure due to non-compliance - Minimal effects to quality of construction, cost and schedule; Low probability of non-compliance

Actual activities associated with each oversight level vary with the unique characteristics of each project. These can include such considerations as unusually complex project features; sensitive environmental or socio-economic issues; and the LPA project manager's experience with similar transportation projects.

The following table is an example of oversight activities for federal-aid projects; many of these may not be applicable to State-aid projects. The VDOT Project Coordinator and the LPAs Project manager should develop more specific oversight activities and their frequency based on specific project needs and conditions.

Oversight Level	**Minimum Oversight Activities**
Low	• Kickoff (scoping) meeting attendance • Plan development coordination meeting • Final plan review • Pre-construction meeting attendance • Random site visits during construction • Final acceptance inspection
Moderate	• Kickoff (scoping) meeting attendance • Plan development coordination meeting • 30 percent plan review • Public hearing attendance • Final plan review • Pre-advertisement contract review • Pre-award bid review • Monthly to quarterly site visits during construction • Final acceptance inspection

High	• Kickoff (scoping) meeting attendance • Monitor consultant procurement process • Environmental coordination meeting • Plan development coordination meeting • Right-of Way coordination meeting • 30 percent plan review • Public hearing attendance • 60 percent plan review • 90 percent plan review • Bid document review • Pre-award bid review • Pre-construction meeting attendance • Weekly to monthly to quarterly site visits during construction • Final acceptance inspection

The LPA and VDOT's Project Coordinator may increase or decrease the level of oversight for a particular project based upon the LPAs performance on previous projects and results of VDOT compliance reviews. As VDOT's confidence in the LPAs ability to administer projects increases, the level of oversight may be reduced. However, oversight may be increased due to any number of factors including the LPA assuming responsibility for more complex projects. LPA experience becomes an important factor in oversight and risk - the more experience the LPA gains, VDOT will typically reduce its level of oversight.

Additional discussion regarding project oversight and monitoring during construction is found in the Construction Administration chapter.

Locally Administered Projects (LAP) Manual

PART 2

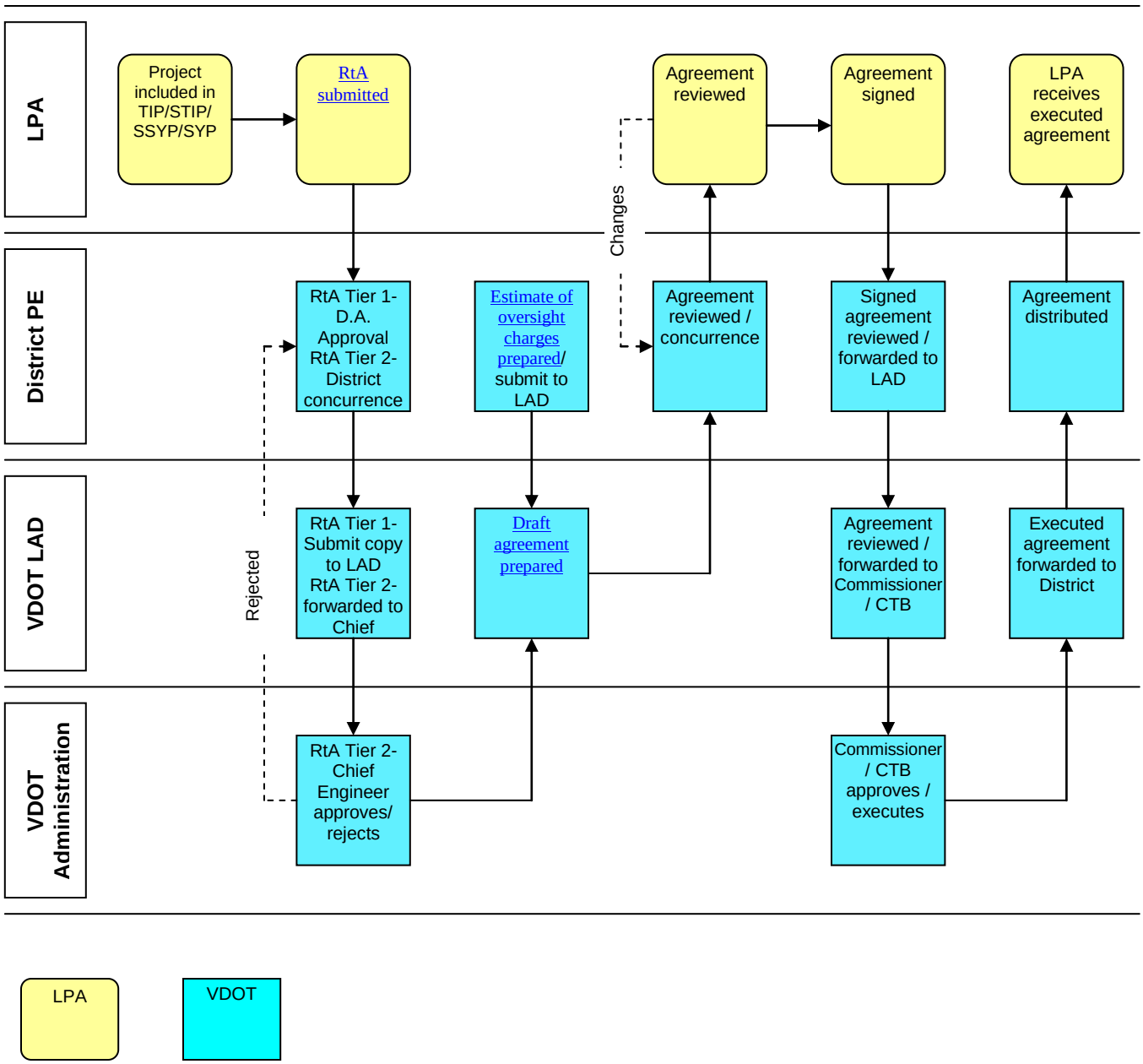
Project Management

Chapter 10

Project Administration & Agreements

CHAPTER 10
PROJECT ADMINISTRATION AGREEMENTS

Project RtA's and Standard Agreements



Chapter 10
PROJECT ADMINISTRATION AGREEMENTS

This Chapter includes the following topics

10.1 Introduction
10.2 Applicability
10.3 Purpose of Agreements
10.4 Request to Administer VDOT Project
10.5 Project Administration Agreements
10.6 Appendix A to the Project Administration Agreement
10.7 Local Government Submittals/File Documentation
10.8 References
10.9 Appendices

A. Project Administration Agreement Checklist
B. Request to Administer Form
C. Standard Agreements
   a. Federal-aid Project Administration Agreement
   b. State-aid Project Administration Agreement
   c. Advanced Funding SYIP-SSYP Reimbursed Agreement
   d. VDOT Project Services Agreement

10.1 INTRODUCTION

This chapter of the Locally Administered Project Manual outlines the processes and responsibilities associated with Project Administration agreements. This chapter includes information regarding Request to Administer forms and Project Administration Agreements.

10.2 APPLICABILITY

- All locally administered projects using federal or state-aid funding reimbursed by VDOT must have a project agreement.
- LPAs which administer their construction program, such as the Urban Construction Initiative Program, may administer projects through their programmatic agreement, with the exception of CMAQ, HSIP, RSTP and Revenue Sharing funded projects.
- Projects funded by LPAs and administered by VDOT must have a Project Administration Agreement.

Project Administration Agreements		
Federal-aid	*State-aid/VDOT Maintained*	*State-aid/LPA Maintained*
X	*X*	*X*

10.3 PURPOSE OF AGREEMENTS

For all LPA administered projects, a Project Administration Agreement is required. The agreement identifies the terms for an LPA to administer a specific project to include specific responsibilities of the LPA/VDOT, funding sources, VDOT charges, reimbursement amounts, and general project estimates by phase.

Work conducted prior to execution of a Project Administration Agreement and, when federal aid is involved, receipt of federal authorization, may not be eligible for reimbursement. The LPA must receive written authorization from the VDOT Project Coordinator if an exception to this requirement is necessary.

10.4 REQUEST TO ADMINISTER PROJECT

The LPA will submit a Request to Administer (RtA) form to obtain concurrence to administer a project. Certain projects which are the result of a grant solicitation and selection process or projects administered via a programmatic agreement are not required to submit an RtA. These projects include:

- Enhancement Program Projects
- Revenue Sharing Program Projects
- Safe Routes to Schools Program Projects
- UCI Participant Projects

A local government self-evaluation is integrated into the RtA form and used for both Tier 1 and Tier 2 projects. The self-evaluation is intended to assist localities assess their abilities, and assist VDOT when considering local governments' requests to administer and manage transportation projects.

The LPA will submit the RtA to the appropriate VDOT local liaison.

When submitting the RtA, the LPA Project Manager will ensure the following is complete and/or identified on the RtA:

- Confirm that the project is included in the TIP/STIP/SYIP/SSYP, where applicable
- Name of responsible local official

- Name of locality
- Project number
- Universal Project Code (UPC) #
- Short narrative description of project
- Locality contact/phone #/email address
- Level of project administration (PE, RW, CN, All)
- Funding sources are identified
- Local Government Project Delivery Self-Evaluation

VDOT Responsibilities:

The VDOT local liaison will perform the following tasks:

- *Verify project inclusion in the applicable VDOT Program (SYIP or SSYP), if applicable.*
- *Review the RtA for completeness / accuracy & complete if necessary.*
- *Review the Local Government Project Delivery Self Evaluation.*
- *Forward the RtA to the District Project Development Engineer (DPDE) and/or District Planning and Investment Manager (PIM), or other District staff for comment on the LPA's qualifications to administer the project.*
- *Assign a Project Coordinator.*

After receiving comments from District staff,

- *RtA's for Tier 1 Projects will be forwarded to the District Administrator for approval or denial.*
    - *Submit an approved copy to Central Office, Local Assistance Division.*
- *RtA's for Tier 2 projects will be forwarded to Central Office, Local Assistance Division, with a recommendation (concur with local administration or non-concurrence) and any pertinent comments.*
    - *The Local Assistance Division will enter the project into the Agreements Database and will forward the request to the Chief Engineer for final decision.*

- *After receiving the Chief Engineer's approval, LAD will return a signed copy of the RtA to the assigned Project Coordinator to initiate the agreement development process.*
- *If the RtA is denied, LAD will notify the Project Coordinator who will then discuss alternatives with the LPA.*

10.5 PROJECT ADMINISTRATION AGREEMENTS

VDOT has developed a series of Standard Project Administration Agreements (PAA's) approved by the Office of the Attorney General (OAG) which meet the majority of project types and situations that will generally be encountered. In most instances, a Standard Project Administration Agreement will be prepared and submitted to the LPA for execution within 30 days of RtA approval, however if preparation of the agreement requires that the SYP be updated, or local project contributions determined and agreed to, it may take longer than 30 days to have the agreement prepared.

Standard project administration agreements have been developed for the following types of projects:

- Federal aid
- State aid
- Urban Construction
- Advanced Funding/SYIP Reimbursed
- Locally Funded/VDOT Administered

There are instances where projects are sufficiently unique that the standard agreement will not suffice and a custom agreement may be necessary. Custom agreements require more time to prepare and always require OAG approval.

When a LPA requests that VDOT administer a project not otherwise in one of the Six Year Programs and offers to fund the project, a Locally Funded/VDOT Administered Agreement must be executed. The LPA will be required to submit funding in advance in part or in full.

10.6 APPENDIX A TO THE PROJECT ADMINISTRATION AGREEMENT

The Standard Project Administration Agreement contains an Appendix (Appendix A) which identifies project specific information. After approval of the RtA, the Project Coordinator will work closely with the LPA Project Manager to complete Appendix A, to include the following:

- Locality and project information as required by Federal Funding Accountability and Transparency Act (FFATA) for any federally funded sub-awards greater than $25,000 made after October 1, 2010.
    - Street Address with nine digit zip code for the sub-recipient's administrative main office
    - Nine digit zip code for the location of the project
    - DUNS number of sub-recipient
- Project scope and schedule
    - Project Scope and the development of a firm schedule must be completed within six months of execution of the project administration agreement unless concurrence is otherwise obtained from the District per Chapter 12.1.3 (Scoping Process Requirements) of the LAP Manual;
- Locality Project Manager information
- VDOT Project Coordinator information
- Estimated project costs by phase
- VDOT charges by phase
- Project financing (all sources including locality funds)
- Timeframes for obligation and expenditure of CMAQ, RSTP and HSIP funds.
    - CMAQ funds shall be obligated within 24 months from allocation, with full expenditure completed no later than 48 months after obligation;

- RSTP and HSIP funds shall be obligated within 12 months of allocation, with full expenditure completed no later than 36 months after obligation;

- Limited Fund Sources, add as applicable

  NOTE: See Appendix A Standard Bullets for Agreement (Std Bullets) tab for specific Bullet language

After the Appendix A is completed, it is forwarded to LAD for final review. After LAD review, three originals of the complete agreement are forwarded by the Project Coordinator to the LPA for execution.

The LPA signatory for the agreement must provide evidence of their authority to execute the agreement. Typically, this is a resolution by the governing body but may also be a local ordinance providing the signatory with the authority to enter into such contracts.

Upon execution, the LPA will forward the three signed agreements to the Project Coordinator, who will submit them to LAD for the Commissioner's signature.

- VDOT has established a 30-day performance standard to complete the agreement after the RtA is executed by the Chief Engineer. Since most agreements will utilize a "standard" template, a shorter time-period can be expected. The Project Coordinator should contact LAD if there is a delay in processing an agreement that will impact the 30-day performance standard. After the agreement is signed by the Commissioner, LAD will upload the PAA on its team site for access by the project team members. Agreements are filed according to District and are named "Locality_UPC#."

Oversight Charges

- Specific charges for VDOT oversight are developed by the

VDOT Project Coordinator in consultation with the various disciplines that will be involved with the project. These charges are generally related to design, environmental, and right-of-way reviews and construction monitoring. VDOT staff should be cognizant of the LPA's level of experience when developing estimates for oversight. The oversight principles provided in Appendix 9-B and the oversight risk assessment approach found in Appendix 9-C should be used when determining the level of oversight necessary.

- The LPA should expect an estimate of project oversight costs. The costs are always to be considered a best estimate and are subject to change depending on project requirements. When oversight costs are expected to significantly exceed the estimate, the PC must re-evaluate the costs and provide a new estimate to the LPA PM. The Local Assistance Division can provide cost-estimating spreadsheets that may be used or modified for use by District staff in estimating oversight costs.

10.6.1 Updating Appendix A of the Project Administration Agreement

There are circumstances when the Appendix A must be updated or amended, these include:

- Scope changes
- Funding changes
- Adding/removing phases
- At award - to adjust funding needs to account for final bid and contingencies

Updating/amending the Appendix A will follow the same process as outlined in Chapter 10.6, however approvals are at the staff level and generally do not require action by the locality's governing board. The Locality Project Manager should work closely with VDOT's Project Coordinator when it becomes necessary to update or amend the Appendix A.

VDOT Responsibilities

Project Administration Agreement

The VDOT local liaison will perform the following tasks:

- *Upon receipt of the approved RtA, coordinate with LAD staff for preparation of the Project Administration Agreement*
- *Verify project estimates and funding*
- *Prepare a draft of the Agreement and Appendix A* ***and submit*** *to LAD for concurrence (LAD may prepare the agreement on request of the District PE Manager or UPM and submit it to district staff for concurrence)*
- *Upon receipt of concurrence, submit* ***three*** *originals of the agreement to the Locality for signature (if submitting electronically – please convert files to PDF format)*
- *Upon signature by the locality, forward all three originals to LAD for signature by the Commissioner*
- *LAD will coordinate the signing of the agreement by the*

*Commissioner and will forward **two** originals to the PC*

- *Distribute **one** executed original of the agreement to the locality and retain one original in District files*

Revised Appendix A's

- *Follow the same process, except:*
    - *Appendix A's are signed by authorized staff at the District and Locality*
    - *Submit one original to LAD*

10.7 KEY SUBMITTALS / REQUIREMENTS

Task/Submittal / File Documentation	***Locality Responsibility***	***VDOT Responsibility***	***Submittal Timing / Recordkeeping Requirements***
Request to Administer Form	Prepare and send to RA or UPM	Review request and make recommendation to LAD/Chief Engineer	At initiation of the project; review time approximately 15 business days
Agreement and Appendix A Preparation	Review Appendix A	District/LAD preparation	30 Calendar days
LPA reviews and approves agreement	Agreement signed by local official	N/A	N/A
Agreement execution	Sign agreement and provide signatory authority	Commissioners Signature	15 business days

10.8 REFERENCES

23 CFR 635.102 – Construction and Maintenance – Contract Procedures

33.1-12 Code of Virginia – General powers and duties of the Board

33.1-75.3 Code of Virginia – Construction and Improvement of Secondary Highways by Counties

10.9 APPENDICES

Project Requirements Table

Request to Administer Form

Standard Agreements

- Federal-aid Project Administration Agreement
- State-aid Project Administration Agreement
- Advanced Funding SYIP-SSYP Reimbursed Agreement
- VDOT Project Services Agreement
- Appendix A

Appendix 10-A

Chapter 10 – Project Administration & Agreements Key Requirements Summary Table/Checklist

F	***S-V***	***S-L***	***Requirement***	***Chapter / Section***
X	X	X	Request to Administer Form[1]	10.4
X	X	X	Project Administration Agreement	10.5
X	X	X	LPA Authority to Sign	10.6
X	X	X	Appx A	10.6

[1] - RTA's are **NOT** required for Enhancement Projects, Safe Routes to Schools Projects and UCI Participant Projects

Locally Administered Projects (LAP) Manual

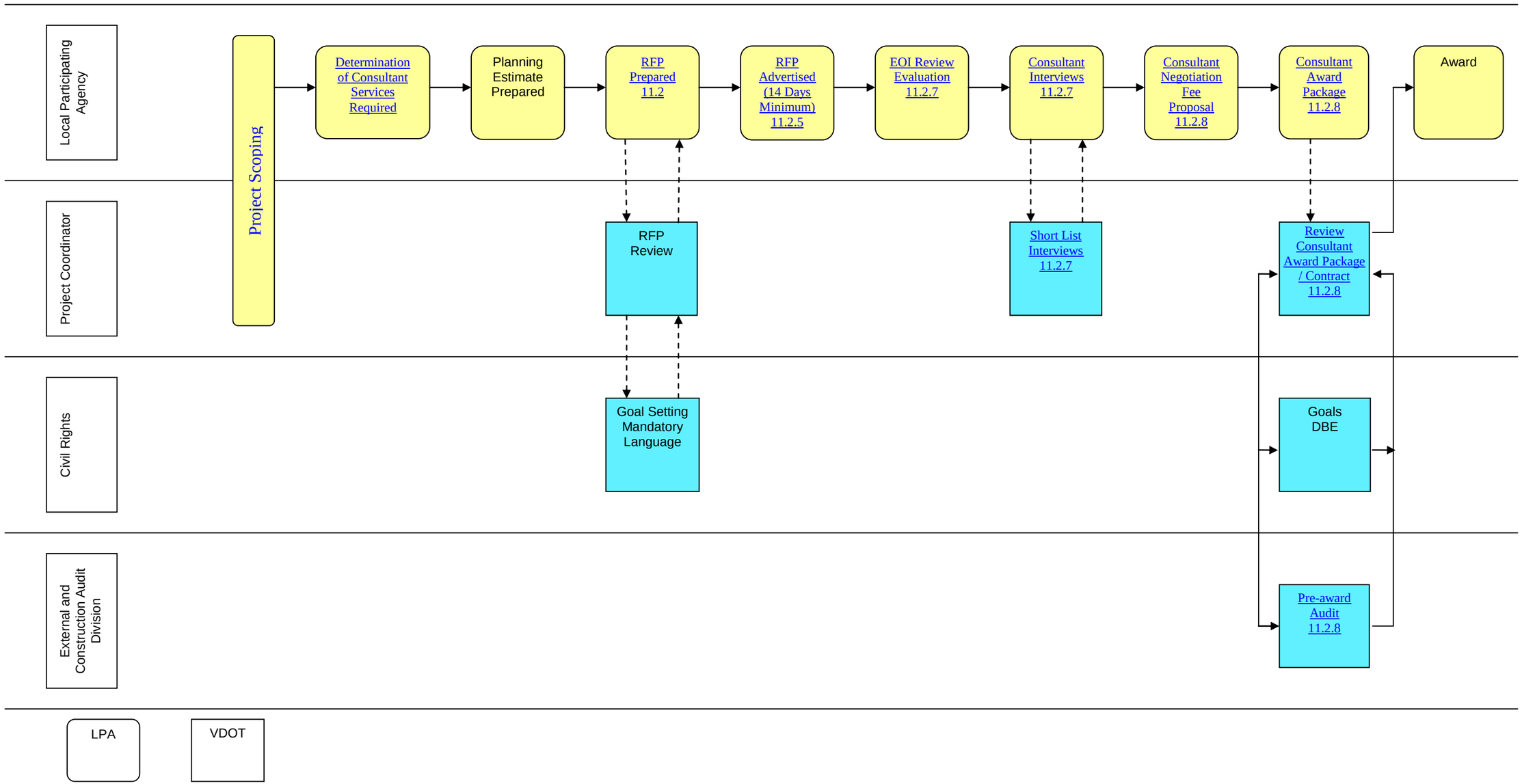
PART 2

Project Management

Chapter 11

Consultant Procurement

CHAPTER 11 - CONSULTANT PROCUREMENT



Chapter 11 - Consultant Procurement

This chapter includes the following topics:

11.1 OVERVIEW
- 11.1.1 Introduction
- 11.1.2 Applicability

11.2 PROFESSIONAL SERVICES PROCUREMENT PROCESS
- 11.2.1 Development of RFP
- 11.2.2 Scope of Services
- 11.2.3 Consultant Qualifications
- 11.2.4 Contract Compensation Methods
- 11.2.5 Advertisement
- 11.2.6 Selection Committee
- 11.2.7 Consultant Evaluation and Selection
- 11.2.8 Consultant Negotiations and Pre-Award Auditing
- 11.2.9 Use of "On-Call" Consultants

VDOT and VDOT Responsibilities

11.3 Tasks/Submittals/Documentation/Responsibilities Table

11.4 References

CHAPTER APPENDICES

- Appendix A – Consultant Procurement Checklist
- Appendix B – RFP and MOA (Consultant Contract) mandatory provisions
- Appendix C – ECAD Pre-Award Evaluation Checklist
- Appendix D – Certification of Debarment or Suspension by any Federal Department/Agency

11.1 OVERVIEW

11.1.1 Introduction

Federal and state laws require professional consultant services to be acquired through a qualifications-based process. For federal-aid projects, procurement requirements are outlined in 23 CFR Part 172, Public Law 92-582 (Brooks Act) and 40 USC, Chapter 11, Sections 1101 – 1104. Additional guidance can be found on FHWA's Engineering and Design Services website. State requirements for professional consultant procurement are found in the Virginia Public Procurement Act (Virginia Code Title 2.2.4301). This chapter will provide the LPA project manager with a summary of the professional services procurement requirements as well as any required and recommended submittals to VDOT for review and/or approval. **The VDOT Manual for Procurement and Management of Professional Services (Professional Procurement Manual) is the primary reference for the procurement of professional services of federal-aid projects administered by the LPA.**

Services or consultants not meeting the definition of professional services or professional occupations by Virginia Code may be procured through non-professional procurement processes. However, the local government must coordinate closely with the VDOT Project Coordinator when this option is being considered. Acquisition of pre-approved Right of Way Consultants and Counsel is discussed in Chapter 16.4.2 (Right of Way).

LPA-administered transportation projects funded through VDOT state-aid or special programs such as Revenue Sharing and Access, and will not otherwise include federal aid, shall follow local professional services contract procurement processes developed pursuant to Code of Virginia §2.2.4301 and in compliance with the Virginia Public Procurement Act (VPPA), rather than those outlined in this manual. The LPA is solely responsible for compliance with the VPPA and will be required to certify compliance with Virginia's PPA prior to the initial reimbursement request for such activities, in

accordance with Chapter 5 of this manual. LPAs are advised that reimbursements for consultant services procured using local guidelines which do not meet federal-aid requirements may not be provided if the project is converted to include federal aid.

Additionally, FHWA has determined that the use of state procurement procedures is acceptable for projects not located within highway rights of way. Title 49 CFR 18.37(a) specifies that a state shall follow state law and procedures when awarding and administering subgrants to local governments. For such federal-aid projects, most common when dealing with the Enhancement Program, VDOT requires LPAs to follow the VPPA. Further discussion of Enhancement Program projects is contained in Chapter 5. **LPAs administering Enhancement projects must coordinate closely with their VDOT Project Coordinator when employing these efficiencies.**

11.1.2 Applicability

- Federal-aid professional services contracts and those developed to qualify for federal aid.
- For state-aid projects, LPAs must retain adequate documentation to demonstrate compliance with the Virginia Public Procurement Act and ensure those records are available for audit for a minimum of three years after fiscal close-out of the project.

Professional Procurement Provisions		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid /LPA Maintained*
X	*	*

* LPAs must meet provisions of Virginia Public Procurement Act

11.2 PROFESSIONAL CONSULTANT PROCUREMENT PROCESS

11.2.1 Development of Request for Proposal

The LPA is responsible for preparing the consultant Request for Proposal (RFP) and subsequent Contract/Memorandum of Agreement with the consultant. LPAs may use their own RFP formats; however, to ensure all federal-aid provisions are met, the MOA (consultant contract) must contain the applicable federal requirements provisions highlighted in the RFP/MOA templates contained in Appendix B. For federal-aid professional consultant contracts the selection factors found in Chapter 3.1 of the *VDOT Manual for Procurement and Management of Professional Services* should be included in the RFP. **Selection factor "Present Workload" however, is not required**.

The LPA may develop or use their own existing selection criteria, with approval of VDOT, as it relates to the qualification of the consultant with respect to the proposed services; however, it must NOT contain price or local preference criteria. Any conflicts with local procurement requirements must be discussed and resolved with VDOT prior to advertisement of the RFP. Failure to receive VDOT concurrence for the selection criteria could result in loss of federal participation if the criteria are found to violate federal requirements.

11.2.2 Scope of Services

The LPA is encouraged to work closely with VDOT, early on in the project development process to prepare a preliminary scope for the project. The preliminary project scope should be used, during the RFP development, to determine scope of services needed from the consultant and the schedule the consultant must meet. The consultant scope of services also serves as the basis for estimating consultant costs for the project, although this estimate will be further refined after negotiations with the most qualified consultant. VDOT can provide sample RFPs for various types of professional services at the request of the LPA. VDOT staff is also available to review and comment on the

RFP including the scope of services, especially for those areas where the LPA may be less experienced with federal requirements, such as environmental services. VDOT provides resources for the preparation of professional services contracts on its *Consultant Guide Fee Proposal* Web site.

11.2.3 Consultant Qualifications

Professional consultants are not pre-qualified, however, state or federal laws may require other minimum qualifications to perform certain types of work. In Virginia, professional services are regulated by the Department of Professional and Occupational Regulation (DPOR). All firms, including branch offices located in Virginia, must meet DPOR requirements. It is strongly recommended that the LPA coordinate with the VDOT Project Coordinator and obtain guidance regarding necessary qualification and selection criteria for their consultants. As with scopes of services, VDOT staff is available to provide support regarding the necessary consultant qualifications.

11.2.4 Contract Compensation Methods

VDOT allows the use of three types of compensation methods for "professional engineering" services: cost plus fixed-fee, fixed billable rates, and lump sum. A complete description of these contract types is provided in VDOT's 2009 Manual for the Procurement and Management of Professional Services, Section 5.3.

11.2.5 Advertisement

The LPA must advertise the RFP in a newspaper of general circulation in the area in which the contract is to be performed, and in a minority owned newspaper in those areas, when available.

The RFP must be advertised for a minimum of 14 calendar days; however, VDOT recommends an advertisement of at least 30 calendar days to ensure full consideration by as many potential consultants as possible.

The LPA should date-stamp each offeror's expression of interest (EOI), to validate the EOI was received prior to the due date.

11.2.6 Selection Committee

The LPA must establish a selection committee to objectively evaluate submitted EOIs. The LPA should assign a selection committee chairperson and a selection committee comprised of local government staff representing technical experts as well as procurement and administrative experts. The VDOT Project Coordinator or other technical staff are available to assist during the interview process but will not be voting members of the selection committee.

Throughout consultant interviews and selection process, the LPA must provide a staff person, independent of the project, to observe the selection process. The purpose of this individual is to act as an impartial observer and to verify that the selection process followed the procedures outlined in this chapter for federal-aid projects. This responsibility generally falls to the purchasing/procurement staff.

11.2.7 Consultant Evaluation and Selection

Using the scoring criteria included in the RFP, each EOI must be individually scored by selection committee team members. Individual scores and rankings will be evaluated to determine the qualifications ranking for all EOIs. The LPA must keep, in the project file, signed or initialed originals of each individual score and rationale for the final ranking.

For federal-aid projects, a minimum of three consultants must be selected for further evaluation and technical presentations (the “short list”). If less than three expressions of interest were received, the LPA must contact the VDOT Project Coordinator to determine if the selection may continue. VDOT will obtain concurrence from FHWA to proceed with the selection process. For non-federal-aid projects, a minimum of two must be selected, in accordance with the VPPA.

VDOT recommends that short-listed firms be notified in writing and may request that the firms jointly attend a detailed project briefing meeting. This notification should include the schedule of their interview/technical presentation. If a project briefing is not held, the notification letter should inform the consultant as to what points the selection committee expects to be covered at the interviews/technical presentations.

After the interview/technical presentations are completed, the selection committee should hold a meeting to discuss and rank the teams using narrative statements of strengths and weaknesses based on the teams EOI, response to questions and interview/technical presentation.

After discussions regarding strengths and weaknesses of each firm, the Selection Committee must take a vote to determine the ranking order (“Final Ranking”). The Final Ranking must be based on a majority decision and does not need to be unanimous. Written justification of the final rankings and selection must be included in the project file. The notification regarding final selection must be sent to all shortlisted firms and posted publicly, typically on the LPA’s procurement Web site.

11.2.8 Consultant Negotiations and Pre-Award Audit

Upon final ranking of the offerors, the LPA may contact the top ranked offeror and begin negotiations. The purpose of the negotiations is to agree upon a contract which is reasonably acceptable to all parties. A written record must be kept of the negotiations. Only one consultant may be negotiated with at any one time. If a mutually agreeable

contract cannot be finalized with the top-ranked firm, then negotiations with that firm will be formally terminated and negotiations with the second-ranked offeror will begin.

Prior to a consultant agreement having a value less than $200,000 being executed, the LPA should conduct a pre-award evaluation of any *"professional services"* cost proposals, including any incorporated sub-consultant proposals, and retain the result of the review in its records. LPA's should review these proposals in accordance with the Pre-Award Evaluation Requirements included in Appendix C of this chapter.

VDOT's External and Construction Audit Division (ECAD) will conduct a pre-award evaluation for consultant *"professional services"* cost proposals having a value greater than $200,000 prior to their execution. The consultant is required to submit a Federal Acquisition Regulations (FAR) audit meeting the requirements of Part 31 of Title 48 of the Code of Federal Regulations when a prime or combined prime and sub-consultant cost proposal has a value of $200,000 or more. Pre-award evaluations are not required for off right-of-way Enhancement Projects.
Pre-award evaluation consists of a review of the offeror's financial capability, adequacy of accounting systems, appropriateness of overhead rates, labor additives and similar add-ons. The FAR Audit consists of a determination of costs eligible for reimbursement on Federally funded agreements conducted in accordance with Cost Accounting Standards issued by the Cost Accounting Standards Board.

Additional guidance can be found in Appendix C and the VDOT Manual for Procurement and Management of Professional Services. Also, the AASHTO Uniform Audit & Accounting Guide is an excellent resource that outlines these requirements.

At the end of negotiations, the following must be provided to the Project Coordinator for review by VDOT External and Construction Audit Division:

- Fee Proposal – this must contain sufficient information to support the basis for the costs contained in it and must contain a certification that the costs were proposed in a manner consistent with the requirements of the consultant's accounting system, specifically stating that costs proposed as direct expenses are not included in their overhead.
- Supporting Documentation found in Appendix C:
  - Fee contingency, as determined by the LPA
  - Net fee – negotiation guidelines are found in the VDOT Manual for Procurement and Management of Professional Services and best management practices for the LPA
  - Consultant direct labor costs
  - Consultant indirect (overhead) costs
  - Non-salary (other) direct costs
- Certification regarding debarment or suspension by any federal department or agency; for primary and sub consultants
- Insurance certifications
- Title VI evaluation report form (T6-9-12-06) or Title VI approval letter from VDOT's Civil Rights Division.

Upon receipt of a complete package, VDOT will provide comments within 20 business days.

After resolution of comments provided by VDOT, the local government may execute the contract with the consultant. LPAs may use any contract format; however, for federal-aid projects, specific provisions must be included in the contract. In addition, if the consultant contract is a fixed fee, the agreement must include the fixed fee clause as required by FAR §36.609-1 (c). VDOT uses a Memorandum of Agreement (MOA) as the standard contract. If desired, the VDOT Project Coordinator can provide an example of an MOA for the LPA's use.

Pre-Award Evaluation Requirements

The LPA's prime consultant should submit their cost proposal, to include their subconsultant, a breakdown of all costs and supporting documentation supporting the proposed cost as described below:

Direct Labor Costs

- Proposal should contain supporting data such as:
    - Description of the scope of the work
    - Proposed schedule
    - Man-hours
        - required for each task, stage or element, by each category of personnel
    - Average hourly rates
        - for each category of personnel with payroll register or similar supporting documentation
    - Estimated direct costs
        - The allowable lodging and meal and incidental expense rates to be used should not exceed what is allowed in the VDOT Travel Policy.
        - Consultant travel reimbursement is limited to the rates stipulated in the VDOT Travel Policy.
        - The acquisition of any individual item or service costing more than $5,000, but no more than $50,000, shall be supported by at least four (4) written quotes from DMBE-certified small businesses, if available.
        - Consultants (geotechnical, aerial photography, testing labs, Etc.) which normally work on a unit price basis probably cannot provide support for their unit prices; however, they should provide a copy of their standard fee schedule and shall attest that the fees contained thereon are their normal fees for such services.

        - If a consultant proposes to purchase or lease computer hardware and/or software for use on a project, the proposal must be reviewed by the Information Technology Application Division (ITAD).
    - Sub-Consultant Costs
        - Prime consultant administrative mark-ups on costs for the managing of sub-consultants, in addition to the overhead, labor, and fixed fee are not allowed.
    - Payroll Burden & Overhead Rates
        - Audited in accordance with the FAR. Rates should be for a period not older than eighteen (18) months.
        - The consultant and all sub-consultants must comply with the FAR audit rate requirement within ten (10) work days of being notified of selection.
        - The overhead audit shall be performed by an independent CPA firm or cognizant government agency.
        - The audit shall be subject to review and approval by the ECAD.
        - FAR audits are not required for sub-consultants whose fees are estimated to be less than $200,000, provided that the combined prime and sub-consultant cost proposal does not exceed $200,000.
        - If the proposed services require the establishment of a field office or if the consultant employees will work out of a VDOT provided office (such as Construction Engineering Inspection Services), a separate audited field overhead rate must be submitted. If no audited field overhead rate is available, an overhead rate of 75% will be allowed.

11.2.9 Use of "On-Call" Consultants

In certain cases the LPA may want to utilize a consultant that is already under contract. In these cases it is important that the LPA have sufficient file documentation to ensure that the procurement process has conformed to **Brooks Act** requirements and the task order(s) covering the additional work must include all required mandatory provisions as

identified in Appendix B-2. File documentation should also include copies of the advertisement, selection criteria, interview questions and responses for each firm interviewed, award notification, signed contract and fee information.

VDOT Responsibilities:

- *Qualifications/Consultant Services: The PC will provide support, as requested, to determine consultant needs and scope of services for LPA. Provide local government with recommendations regarding consultant scope of services and qualifications to include in the RFP.*

- *Review of RFP:*
  - *The PC will review the draft RFP for mandatory federal provisions*
  - *The PC will distribute draft RFP to the District Civil Rights Manager and other disciplines as appropriate for comment.*
  - *If requested, VDOT staff may review, comment and assist in developing and defining consultant scope of services, consultant qualifications, selection criteria and coordination with VDOT technical staff as necessary;*
  - *Alternative selection criteria proposed by the LPA must be reviewed and approved or rejected. Contact Local Assistance Division to coordinate compliance questions.*
  - *Any comments must be provided to LPA within ten business days.*

- *Final Scope of Services and Consultant Fee Proposal: VDOT will review the final scope of services, hours, and fee schedule, if requested. This information will become part of the final pre-award evaluation package.*

- *Final Package to include External and Construction Audit Division (ECAD) Pre-award Evaluation Package: The entire package must be submitted by the PC to ECAD for evaluation. The Project Coordinator*

should ensure that the LPA has submitted a complete package and that overhead rates have been determined by an independent CPA firm following FAR regulations. After ECAD evaluation and approval, provide written notification of approval to the LPA. The written approval and any written information provided by ECAD should be uploaded into the project documents tab in iPM.

11.4 KEY SUBMITTALS / REQUIREMENTS

Task/Submittal / File Documentation	***Locality Responsibility***	***VDOT PC Responsibility***	***Submittal Timing or Recordkeeping Requirements***
Draft RFP/MOA	Use templates/samples provided and ensure contains necessary contract language.	Ensure RFP contains proper selection criteria and contractual language; submit to CR Section for review	Submit prior to advertisement; generally 30 days; VDOT will return within ten business days or other agreed upon schedule
Submit Pre-Award Audit Package	Ensure package is complete prior to submittal	P.C. will review to ensure complete package is submitted and submit to Central Office ECAD for review	Immediately after negotiations are complete; ECAD will provide approval / comments to the PC within 20 business days of submittal
Record of Selection Process, identified in Appendix A of this Chapter	N/A	N/A	Keep on file for three years after financial closeout of project

11.5 REFERENCES

- 23 CFR 172
- 48 CFR 31
- 23 USC 112
- 49 CFR 18.36 (off-system procurement)
- 49 CFR 18.42 (Records Retention)
- VA Public Procurement Act; Code of Virginia Title 2.2 Chapter 43
- 40 USC Chapter 11, Selection of Architects and Engineers

- VDOT Manual for the Procurement and Management of Professional Services
- FHWA Contract Administration Core Curriculum Participants Manual, Section IV.B
- FHWA Consultant Procurement Web Page: http://www.fhwa.dot.gov/programadmin/consultant.cfm
- FHWA Memorandum "Awarding Engineering and Design Services Contracts Based on Brooks Act Requirements" dated December 12, 2005: http://www.fhwa.dot.gov/programadmin/121205.cfm
- FHWA FAQs on Brooks Act: http://www.fhwa.dot.gov/programadmin/172qa.cfm#r02
- FHWA, Administration of Engineering and Design Related Services Contracts - Questions and Answers: http://www.fhwa.dot.gov/programadmin/172qa.cfm

Chapter Appendices

Chapter 11 – Key Requirements / Submittals
Appendix A – Consultant Procurement Checklist
Appendix B – RFP and MOA mandatory provisions
Appendix C – ECAD Pre-Award Evaluation Checklist
Appendix D – Certification of Debarment or Suspension by any Federal Department/Agency

Chapter 11 – Consultant Procurement Key Requirements Summary Table/Checklist

F	***S-V***	***S-L***	***Requirement***	***Chapter / Section***
			Chapter 11.2 – Professional Consultant Procurement	
x	--[1]	--[1]	Prepare RFP and include Federal Provisions	11.2.1
x	--[1]	--[1]	Submit selection factors for review if not those found in Ch 3.1 of the VDOT Procurement Manual	11.2.1
x	--[1]	--[1]	Scope of Services	11.2.2
x[2]	x[2]	x[2]	Consultant Qualifications	11.2.3
x	--[1]	--[1]	RFP advertised (not less than 14 days)	11.2.5
x	--[1]	--[1]	Consultant evaluation and selection	11.2.7
x	x	x	Maintain in project files individual scores, rankings and rationale for EOI evaluation	11.2.7
x	--[1]	--[1]	Submit fee proposal and contract for pre-award audit (see Appx C of this chapter for checklist)	11.2.8 Appx C
			Chapter 11.2.9 "On-Call" Consultants	
x	--[1]	--[1]	Procurement process shall have conformed to Brooks Act requirements	11.2.9
x	--[1]	--[1]	Include scope of services and qualifications criteria in RFP (if applicable)	11.2.9
x	--[1]	--[1]	Submit the RFP for Review	11.2.9

[1] LPA's must meet provisions of the Virginia Public Procurement Act
[2] Professional firms must meet DPOR requirements

APPENDIX A

PROFESSIONAL PROCUREMENT CHECKLIST

Consultant Procurements Checklist – Federal-aid Projects

__ Ensure mandatory language provided in Manual for LAPs is included in the RFP.

__ VDOT evaluation criteria, minus “present workload with the department,” have been included in the RFP; alternative evaluation criteria must be submitted for approval prior to use.

__ RFP posted in a newspaper of general circulation of the project and a minority-owned newspaper, if one is available, for a minimum of 14 calendar days.

__ Selection committee established, to include one individual, independent of the project, to observe the selection process.

__ Each EOI is individually scored, using the established evaluation criteria; all evaluations / scores are maintained in the project file.

__ A minimum of three (3) consultants must be evaluated (short-listed). If three are not selected, the PC was notified to confirm that the RFP was adequately advertised and that the selection process could continue.

__ Final ranking was based on a majority decision; written justification has been provided in project files.

__ Negotiations made with the highest ranking firm. If no agreement could be made, the negotiation was formally ended and negotiations began with the next highest ranking firm.

__ Written records of all negotiations and decisions are provided in the project files.

__ Contract/MOA contains all mandatory language provided in the Manual for LAPs.

APPENDIX B

MANDATORY FEDERAL- AID PROFESSIONAL SERVICES RFP TEMPLATE/MOA (CONTRACT) PROVISIONS

TEMPLATE

REQUEST FOR PROPOSAL

Virginia Department of Transportation

GENERAL

The < Local Government > is seeking expressions of interest from consulting engineering firms who wish to be considered to provide professional engineering services for ...

... The estimated project cost is $_____

This work is to be accomplished utilizing computerized design and drafting systems compatible with the VDOT's automated design and drafting systems. VDOT's roadway design system is GEOPAK Civil Design Software and the drafting system is Microstation. This project will be developed utilizing VDOT's policies and procedures and FHWA's guidelines. This Request for Proposal does not commit the < Local Government > to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services. [Include the following wording on all projects except multiple awards contract: The < Local Government > reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified firm or to modify or cancel in part or in its entirety the Request for Proposal if it is in the best interest of the < Local Government > to do so.] [Include the following wording on multiple awards contract: The < Local Government > reserves the right to award contracts to more than one qualified firm, to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified firm or to modify or cancel in part or in its entirety the Request for Proposal, if it is in the best interest of the < Local Government > to do so. Each multiple award contract will be negotiated and awarded sequentially following the same procedures set forth in the 2007 Manual for the Procurement and Management of Professional Services.]

SCOPE

The scope of work shall consist of providing….

… All procurement related questions or information should be directed to Jane Doe at 804-666-6667 or email Jane.Doe @< Local Government >.xxx.

[CONFLICT OF INTEREST: Include this wording on all engineering design services contracts for projects that are not considered design-build candidates: At this time, < Local Government > is not considering this project to be delivered through a design-build option. If the< Local Government > decides to deliver the project through design-build option, the successful consultant and any of its team members may not be allowed to participate in ANY subsequent design-build contracts. Furthermore, the< Local Government > will notify the successful

consultant regarding the change in its intent of delivery method in advance. The Conflict of Interest determination will be made on a case by case basis at such time.]

OR

[CONFLICT OF INTEREST: Include this wording on all contracts for projects that are most likely to be considered as design-build candidates: If the< Local Government > determines to deliver the project through a design-build delivery option, the < Local Government > reserves the right to revise the scope of this professional service contract. The revised scope may include preparation of design-build contract documents, technical evaluations of design-build proposals, and contract administration of design-build project. Therefore, the successful consultant and any of its team members will not be allowed to participate in ANY subsequent design-build contracts related to this project. Upon < Local Government >'s determination of design-build delivery of the project, a fair and reasonable compensation to perform the required services will be negotiated through a Supplemental Agreement.]

OR

[CONFLICT OF INTEREST: Include this wording on all Limited Service Term contracts for engineering design: At any time, the< Local Government > may consider projects assigned under this contract to be delivered through a design-build option. If the < Local Government > decides to deliver a project through design-build option, the successful consultant and any of its team members may not be allowed to participate in ANY subsequent design-build contracts related to that project. Furthermore, the < Local Government > will notify the successful consultant regarding the change in its intent of delivery method in advance. The Conflict of Interest determination will be made on a case by case basis at such time.]

EXPRESSION OF INTEREST (EOI)

1. The Expression of Interest shall be organized in the following order:
    - Transmittal letter
    - Table of Contents
    - Understanding of Scope of Work
    - Response to RFP Expression of Interest Items 2-14
    - Present workload with Department form
    - Team organization chart
    - GSA Form 255 – one combined for the project team
    - GSA Form 254 – one for each firm
    - Firm data sheet

- Certification Regarding Debarment form
- DBE Commitment and Confirmation Letter (if applicable)

2. Furnish three copies of current GSA Forms 254 for each firm involved and three copies of one combined GSA Form 255 for the project team. The GSA Form 255 must specify the number of personnel by discipline for each office where the work is to be performed. In Section 4 of GSA Form 255, list only the full time employees assigned to the office(s) at the time of this submission. Section 8 of GSA Form 255 is limited to one page with not more than 10 projects total (prime and subconsultants combined) on the one page and should primarily list experience of offices where the work will be performed and of the people shown in the organizational chart. If the experience shown is for a branch office other than where the work will be performed, it should be clearly indicated as such. More detailed descriptions for Section 8b may be expanded into Section 10. In Section 9 of GSA Form 255, references to "**Federal agencies" are to be replaced by "Virginia Department of Transportation or Local Government**."

3. If more than one firm will participate in the contract, state the type of arrangement between the firms, the names and addresses of all firms, description of the work that each firm will perform, and the percentage of work to be performed by each in Section 5 and 6 of GSA Form 255. Indicate office locations at which the work will be performed. A one page organizational chart showing all firms involved and key personnel assignments and responsibilities is required to be included.

4. In Section 7 of GSA Form 255, indicate KEY PERSONNEL ONLY who will be assigned to this project and give the experience record of each. Key personnel are defined as those to whom the project will be assigned and who will be performing the actual design/services. The project manager shall have a minimum of five years experience in managing similar type and size projects. In Section 7c, indicate the location of the office where the person is currently working if different from where work is to be performed. In Section 7c, part time personnel, personnel not employed on the date of the form, or personnel used on an "as needed basis" must have their status clearly indicated. Section 7g may be expanded to provide a total of a one page resume per individual.

   Furthermore, all individuals identified as Key personnel in the EOI shall remain on the Consultant's Team for the duration of the procurement process and, if the consultant is awarded a contract, the duration of the contract. If extraordinary circumstances require a proposed change, it must be submitted in writing to the < Local Government's > Project Manager, who, at his/her sole discretion, will determine whether to authorize a change. Unauthorized changes to the Consultant's Team at any time during the procurement process may result in elimination of the Consultant's Team from further consideration.

5. Section 10 of GSA Form 255 is limited to a maximum of ten pages. This section should describe the organization of the proposed project staff indicating the role of each by individual. If subconsultants are proposed, the role of each subconsultant should be

discussed. It should also include statements that are responsive to the attached Consultant Short List Score Sheet that will be used to evaluate your submission. This is the ONLY section of the submission which may include pictures or graphics (included in the ten page limit). List any computer and CADD equipment and any specialized computer software packages that you will use on this VDOT project**.**

6. *"It is the policy of the Virginia Department of Transportation and <**insert LPA**> that Disadvantaged Business Enterprises (DBEs) as defined in 49 CFR Part 26 shall have the maximum opportunity to participate in the performance of federally funded consultant contracts. A list of Virginia Department of Minority Business Enterprise certified DBE firms is maintained on their web site (http://www.dmbe.state.va.us/) under the **DBE Directory** link. Consultants are encouraged to take all necessary and reasonable steps to ensure that DBEs have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider DBEs as potential subcontractors. The consultant is encouraged to contact DBEs to solicit their interest, capability and qualifications. Any agreement between a consultant and a DBE whereby the DBE promises not to provide services to other consultants is prohibited."*

In accordance with the Governor's Executive Order No. 33, the Virginia Department of Transportation also requires a utilization of Small, Women and Minority (SWaM) Businesses to participate in the performance of state funded consultant contracts. A list of Virginia Department of Minority Business Enterprise (DMBE) certified SWaM firms is maintained on the DMBE Web site (http://www.dmbe.state.va.us/) under the **SWaM Vendor Directory** link. Consultants are encouraged to take all necessary and reasonable steps to ensure that SWaM firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the consultant intends to subcontract a portion of the services on the project, the consultant is encouraged to seek out and consider SWaM firms as potential subconsultants. The consultant is encouraged to contact SWaM firms to solicit their interest, capability and qualifications. Any agreement between a consultant and a SWaM firm whereby the SWaM firm promises not to provide services to other consultants is prohibited.

[Include the following wording and two bullets on state or federally funded projects with a DBE or SWaM goal. In the following sentence and these two bullets, remove references to SWaM on federally funded projects and DBE on a state funded project and all SWaM references where not applicable for local governments] If portions of the services are to be subcontracted to a DBE or SWaM, the following needs to be submitted with your EOI and both must reference the project number(s) for the services:

- Written documentation of the prime's commitment to the DBE or SWaM firm to subcontract a portion of the services, a description of the services to be performed and the percent of participation.

- Written confirmation from the DBE or SWaM firm that it is participating, including a description of the services to be performed and the percent of participation.

49 CFR Part 26 requires VDOT to collect certain data about firms attempting to participate in VDOT contracts. This data must be provided on the enclosed Firm Data Sheet.

VDOT is also required to capture DBE and SWaM payment information on all professional services contracts. The successful prime consultant will be required to complete C- 63 form for both state and federally funded projects on quarterly basis.

Any DBE or SWaM firm must become certified (with the Virginia Department of Minority Business Enterprise) prior to your response being submitted. If DBE or SWaM firm is the prime consultant, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE or SWaM subconsultants. DBE or SWaM prime consultants are encouraged to make the same outreach efforts as other consultants. DBE or SWaM credit will be awarded only for work actually being performed by them. When a DBE or SWaM prime consultant subcontracts work to another firm, the work counts toward DBE or SWaM goals only if the other firm is itself a DBE or SWaM. A DBE or SWaM prime consultant must perform or exercise responsibility for at least 30% of the total cost of its contract with its own force.

DBE or SWaM certification entitles consultants to participate in VDOT's DBE and SWaM programs. However, this certification does not guarantee that the firm will obtain VDOT work nor does it attest to the firm's abilities to perform any particular work.

Business Opportunity and Workforce Development (BOWD) Center - The BOWD Center is a VDOT developmental supportive services program and partnering initiative funded by FHWA for selected DBE firms of various skill and competence levels interested in entering, enhancing or expanding highway contracting opportunities with prime consultants. The partnering initiative between prime consultants and BOWD DBE firms provides the opportunity for the further development of DBE firms through performance on contracts and guidance from prime consultants. The intent of this partnering initiative is to increase capacity by perfecting existing skills and knowledge, expanding into new work areas, and prime consultant joint venturing with DBE firms.

The prime consultants are encouraged to achieve all or a percentage of the required DBE participation/goals determined for this project by the utilization of BOWD approved firms. To assist consultants in taking advantage of this opportunity for utilization of approved BOWD firms, please contact the BOWD Center for additional information, details, resources and support. For further information on the BOWD Center and to view the DBE profiles, go to www.virginiadot.org/business/BOWD.asp. The BOWD Center can be contacted at (804) 662-9555 or via email to BOWDCenter@vdot.virginia.gov.

7. If any firms involved with this submission currently have work with VDOT, indicate the projects, the division managing the projects, the amount of outstanding fee remaining, and the estimated date of completion. For limited services term contracts, include only the amount of all tasks orders executed or under negotiation. Also, include your estimated fees for pending supplemental agreements and any projects for which the firms have been selected, but have not executed an agreement. Work of affiliated and/or subsidiary companies is to be included. The outstanding workload of any Virginia Department of Minority Business Enterprise certified DBE or SWaM prime or subconsultant is not to be included. When a DBE or SWaM firm graduates from the program, their workload incurred while a DBE or SWaM will be exempted for the next three years. Any workload obtained after graduating from the program will be counted. Work being performed under the Public Private Transportation Act (PPTA) or as a subcontractor on a Design-Build project shall not be included. Work being performed as a prime or joint venture on a Design-Build project shall be included. The outstanding fee remaining is the maximum total compensation payable less the amount previously paid to date. Only Category ___ work will be counted in the scoring criteria. This information shall be submitted using the attached Present Workload with Department form. Please carefully read the instructions on the Present Workload with Department form.

8. Give names and detailed addresses of all affiliated and/or subsidiary companies. Indicate which companies are subsidiaries. If a situation arises in responding to this questionnaire where you are unsure whether another firm is or is not an affiliate, doubt should be resolved in favor of affiliation and the firm should be listed accordingly.

   Affiliate - Any business entity which is closely associated to another business entity so that one entity controls or has the power to control the other entity either directly or indirectly; or, when a third party has the power to control or controls both; or where one business entity has been so closely allied with another business entity through an established course of dealings, including but not limited to the lending of financial wherewithal, engaging in joint ventures, etc. as to cause a public perception that the two firms are one entity. Firms which are owned by a holding company or a third party, but otherwise meet the above conditions and do not have interlocking directorships or joint officers serving are not considered affiliates.

9. In ___ page(s) or less, provide information that will indicate your firm's ability to meet the time schedule for this project. The schedule is as follows:

10. In ___ page(s) or less, please emphasize your qualifications in the following areas:

11. A project approach discussion is neither required nor desired for this project.
    or (select one)
    A project approach discussion is required for this project and shall be limited to a maximum of _____ page(s).

12. In addition to the page restrictions listed above, a maximum of ___ additional pages may be included in the EOI. All pages are to be 8 1/2" X 11" and printed on one side with single-spaced type no smaller than 12 font size.

13. Please indicate, by executing and returning the attached Certification Regarding Debarment forms, if your firm, subconsultant, subcontractor, or any person associated therewith in the capacity of owner, partner, director, officer or any position involving the administration of federal or state funds:

    - Is currently under suspension, debarment, voluntary exclusion or determination of ineligibility by any federal agency.

    - Has been suspended, debarred, voluntarily excluded or determined ineligible by any federal agency within the past three years.

    - Has a proposed debarment pending; or has been indicted, convicted, or had a civil judgment rendered against it or them by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three years.

    Any of the above conditions will not necessarily result in denial of award, but it will be considered in determining offeror responsibility. For any condition noted, indicate to whom it applies, initiating agency, and dates of action. Providing false information may result in federal criminal prosecution or administrative sanctions.

14. If the prime consultant or subconsultant does not have the in-house capability to provide non-professional services, each with an estimated cost of $5,000 or greater, such as diving services, soil drilling, sampling services or laboratory testing, these services must be subcontracted in accordance with State procurement procedures once a contract is executed, with no DBE or SWaM credit in the selection of the most qualified firm or team. Clearly indicate these services in the EOI.

ADMINISTRATIVE

1. The following services marked with an X will **NOT** be required:

Surveying ___	Specifications ___
Bridge and Structure Plans ___	Materials Analysis ___
Permit Drawings ___	Environmental ___
Hydraulic and Hydrologic Analysis ___	Road Plans ___
Traffic Data ___	Traffic Analysis ___
Signs and Signals Plans ___	Lighting Plans ___
Scour Analysis ___	Geotechnical Borings and Analysis ___
Utility Plans ___	Landscape Plans ___

2. All business entities, except for sole proprietorships, are required to register with the Virginia State Corporation Commission (A Business Registration Guide is available on the Internet at http://www.state.va.us/scc/division/clk/brg.htm). Foreign Professional corporations and Foreign Professional Limited Liability Companies must possess a Commonwealth of Virginia Certificate of Authority from the State Corporation Commission to render professional services. Any business entity other than a professional corporation, professional limited liability company or sole proprietorships that do not employ other individuals for which licensing is required must be registered in the Commonwealth of Virginia with the Department of Professional and Occupational Regulation, Virginia Board for Architects, Professional Engineers, Land Surveyors and Landscape Architects (http://www.state.va.us/dpor). Board regulations require that all professional corporations and business entities that have branch offices located in Virginia which offer or render any professional services relating to the professions regulated by the Board be registered with the Board. Registration involves completing the required application and submitting the required registration fee for each and every branch office location in the commonwealth. All branch offices which offer or render any professional service must have at least one full-time resident professional in responsible charge who is licensed in the profession offered or rendered at each branch. All firms involved that are to provide professional services must meet this criterion prior to submitting an EOI to the < Local Government >. Individual engineers shall meet the requirements of Chapter 4, Title 54.1 of the Code of Virginia.

3. The < Local Government > will not consider for award any cost proposals submitted by any consultants and will not consent to subcontracting any portions of the contract to any

subconsultants in violation of the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.

4. The method of payment for this contract will be cost plus fixed fee. This contract shall be performed and audited in compliance with cost principles contained in the Federal Acquisition Regulations (FAR) of Part 31 of Title 48 of the Code of Federal Regulations. The overhead rate shall be established by an audit by a cognizant government agency or independent CPA firm. Subconsultant contracts may be lump sum if they are for $2 million or less, have a clearly defined scope of work, and will take two years or less to complete.

   or

   The method of payment for this contract will be lump sum. For purpose of determining the lump sum fee, an overhead rate shall be established in compliance with cost principles contained in the Federal Acquisition Regulations (FAR) of Part 31 of Title 48 of the Code of Federal Regulations. The overhead rate shall be established by an audit by a cognizant government agency or independent CPA firm.

   or

   The method of payment will be [lump sum/actual costs] for each project assignment based on fixed billable rates. For purpose of determining the [lump sum fee/fixed billable rates], an overhead rate shall be established in compliance with cost principles contained in the Federal Acquisition Regulations (FAR) of Part 31 of Title 48 of the Code of Federal Regulations. The overhead rate shall be established by an audit by a cognizant government agency or independent CPA firm.

5. All firms submitting EOI (prime consultants, joint ventures and subconsultants) must have internal control systems in place that meet federal requirements for accounting. These systems must comply with requirements of 48CFR31, “Federal Acquisition Regulations, Contract Cost Principles and Procedures,” and 23CFR172, “Administration of Negotiated Contracts.” All firms selected for a project (prime consultants, joint ventures and subconsultants) must submit their FAR audit data to the < Local Government > within ten work days of being notified of their selection. Should any firm on the consultant team fail to submit the required audit data within the ten work days, negotiations will be terminated by the < Local Government > and the next most qualified team invited to submit a proposal.

6. Records Exclusion from Public Disclosure: Pursuant to the provisions of §2.2-3705.6 (22) of the Code of Virginia, trade secrets, as defined in the Uniform Trade Secrets Act (§ 59.1-336 et seq.), including, but not limited to, financial records, including balance sheets and financial statements, that are not generally available to the public through regulatory disclosure or otherwise, and revenue and cost projections supplied by a private or nongovernmental entity to the Inspector General of the Virginia Department of

Transportation for the purpose of an audit, special investigation, or any study requested by the Inspector General's Office in accordance with law may, subject to a determination by the Inspector General as described herein, be withheld from public disclosure under the Virginia Freedom of Information Act (FOIA). To enable the Inspector General to identify data or records that may be subject to this exclusion from disclosure under FOIA the private or nongovernmental entity shall, in accord with procedures adopted by the Inspector General, make a written request to the Inspector General of the Virginia Department of Transportation:

- Invoking such exclusion upon submission of the data or other materials for which protection is sought
- Identifying with specificity the data or other materials for which protection is sought and stating the reasons why protection is necessary

The VDOT Inspector General shall determine whether the requested exclusion from disclosure is necessary to protect the trade secrets or financial records of the private entity. The < Local Government > shall make a written determination of the nature and scope of the protection to be afforded by it. Notwithstanding the foregoing, contractor's failure to comply with the requirements stated herein and procedures established by the Inspector General for seeking an exclusion pursuant to §2.2-3705.6 (22) of the Code of Virginia shall result in a denial of the exclusion. Requests for exclusion that are submitted after data or other materials for which protection is sought have been submitted will be denied.

If litigation directly or indirectly results from or arises out of a granted exemption, the contractor will be responsible for all litigation costs incurred by contractor and/or the< Local Government > associated with such litigation. In no event shall the < Local Government > or its officers, employees or agents be liable to the contractor as a result of any disclosure of records or data collected by the < Local Government >, its officers, employees or agents, pursuant to an audit, special investigation, or any study requested by the Inspector General's Office, whether or not the Inspector General has determined that the requested exclusion from disclosure under FOIA is necessary to protect the trade secrets or financial records of the private entity, and in no event shall the < Local Government >, or its officers, employees, or agents be liable to the contractor for any damages or other claims arising directly or indirectly from a determination that the exclusion from public disclosure will not be granted.

7. Submittals shall be prepared simply and economically, providing a straightforward, concise description of the firm's capabilities to satisfy the requirements of the RFP. Emphasis should be on completeness and clarity of content. Elaborate brochures and other representations beyond that sufficient to present a complete and effective proposal are neither required nor desired. Please do not duplicate information furnished in the GSA Form 254 or 255 elsewhere in the submittal. All information must be submitted in

TRIPLICATE and received no later than 4:00 p.m. on _____. Responses received after this time will not be considered.

US Postal Service regular mail, send to:

< Local Government >

Hand delivery, US Postal Service express mail, or private delivery service (FEDEX, UPS, etc.), send to:
< Local Government >

8. The <Local Government> assures compliance with Title VI of the Civil Rights Act of 1964, as amended. The consultant and all subconsultants selected for this project will be required to submit a Title VI Evaluation Report (EEO-D2) within ten work days of notification of selection when requested by VDOT. This requirement applies to all consulting firms when the contract amount equals or exceeds $10,000.

9. The < Local Government > does not discriminate against an offeror because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment.

10. Any offeror who desires to protest the award of a contract shall submit such protest in writing to the < Local Government > no later than ten days after the announcement of the award. Public announcement of the award shall be posted on the Department's Business Center Internet site.

11. eVA Business-to-Government Vendor Registration: The eVA Internet electronic procurement solution, Web site portal (http://www.eva.state.va.us), streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies. All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution through either eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service. For more detail information regarding eVA, registrations, fee schedule, and transaction fee, use the Web site link: http://www.eva.state.va.us. All bidders or offerors must register in eVA; failure to register will result in the bid/proposal/expression of interest being rejected.

11. [Include the following when the required services include handling CII/SSI material, accessing Critical Infrastructure or performing services such as bridge/tunnel inspections] The required services will involve the handling of Critical Infrastructure Information/Sensitive Security Information (CII/SSI) material. Firm(s) handling CII/SSI material will be required to sign non-disclosure agreements. Individuals with the firm(s) that handle CII/SSI material will be required to sign non-disclosure agreements. Once negotiations have been completed and prior to executing a contract, personnel handling CII/SSI material, visiting Critical Infrastructure (CI) facilities or performing bridge/tunnel inspections may be required to pass a fingerprint-based Criminal History

Background Check (CHBC). An individual employee's failure to successfully pass the fingerprint-based CHBC will not negate the selection and offerors will be allowed to replace those individuals. However, if key personnel fail the fingerprint-based CHBC, the selection may be cancelled and negotiations begun with the next ranked offeror. VDOT reserves the right to conduct fingerprint-based CHBC on all employees of the prime consultant, on any employees of subconsultants or on any proposed replacements during the term of the contract who will be involved in this project. All costs associated with the fingerprint-based CHBC are the responsibility of the prime consultant. A VDOT issued photo-identification badge is required for each employee of the prime consultant or any subconsultant who will need access to VDOT CI facilities or who will be performing bridge/tunnel inspections. Based upon the results of the fingerprint-based CHBC, VDOT reserves the right to deny issuance of a VDOT security clearance or a VDOT issued photo-identification badge.

12. [Include the following wording when contract involves purchases of computer hardware, software, firmware, and other microprocessor based products] Year 2000 Compliant (and Enablement) Warranty: The consultant warrants that all software, firmware and hardware product(s) delivered to the < Local Government > under any agreement, and which is used in accordance with the product documentation provided by the consultant, shall be 4-digit Year 2000 compliant (or approved enabled). All products shall accurately process all date-change data from start to finish, including, but not limited to, twentieth, twenty-first centuries and leap year calculations.

    Any product provided under the agreement discovered not to be Year 2000 compliant after acceptance shall be corrected by the consultant at no additional cost to the < Local Government >. Failure to correct the deficiency shall subject the consultant to default action.

    [Include the following wording when contract involves a system and/or customized software which will be used in combination with VDOT owned product(s) or source(s) of data and which are identified in the solicitation] The consultant shall not be responsible for correcting any product(s) (e.g., hardware, software, firmware) which were not provided under the agreement or for correcting any previously owned VDOT products that are used in combination with the VDOT's product(s). However, if this solicitation identifies any product or sources of data to be used in combination with the product(s) delivered under the resulting agreement, the consultant shall be responsible for providing all necessary interface(s) or other appropriate means for assuring that date data output from such other product(s) or source(s) is automatically corrected before being processed by the product(s) or system provided under this agreement.

FIRM DATA SHEET

Funding: ___ (S=State F=Federal) Project No.: _____

Division: _____

EOI Due Date: _____

The prime consultant is responsible for submitting the information requested below on all firms on the project team, both prime and all subconsultants. All firms are to be reported on one combined sheet unless the number of firms requires the use of an additional sheet. Failure to submit all of the required data will result in the Expression of Interest not being considered.

Firm's Name, Address and DBE and/or SWAM Certification Number	Firm's DBE or SWaM Status *	Firm's Age	Firm's Annual Gross Receipts

* YD = DBE Firm Certified by DMBE N = DBE or SWaM Firm Not Certified by DMBE

NA = Firm Not Claiming DBE or SWaM Status

YS = SWaM Firm Certified by DMBE. Indicate whether small, woman-owned, or small business.

DMBE is the Virginia Department of Minority Business Enterprise

CERTIFICATION REGARDING DEBARMENT
PRIMARY COVERED TRANSACTIONS
(To be completed by a Prime Consultant)

Project: _____

1. The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

   a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

   b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgement rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; and have not been convicted of any violations of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

   c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1) b) of this certification; and

   d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

_____ _____ _____

Signature Date Title

_____

Name of Firm

CERTIFICATION REGARDING DEBARMENT
LOWER TIER COVERED TRANSACTIONS
(To be completed by a Sub-consultant)

Project: _____

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

_____ _____
_____
Signature Date Title

_____
_____
Name of Firm

DIVISION: _____ EOI NO.:

CONSULTANT SHORT LIST SCORE SHEET – FEDERALLY / STATE FUNDED PROJECT
(FOR PROFESSIONAL SERVICES)

PROJECT: FIRM: _____

DESCRIPTION: SUBS: _____

DATE:

		NUMERICAL VALUE				AVG.	WEIGHT	WEIGHTED EVALUATION
FIRM/TEAM'S EXPERIENCE IN SIMILAR TYPE OF SERVICES (Expertise, experience and qualifications of team in providing services as related to the scope of services) (1=least, 10=most)		1-10					25%	
PERSONNEL'S EXPERIENCE IN SIMILAR TYPE OF SERVICES (Expertise, experience and qualifications of team in providing services as related to the scope of services) (1=least, 10=most)		1-10					40%	
QUALIFICATIONS OF PROJECT MANAGER (Expertise, experience and qualifications in project management as related to the scope of services) (1=least, 10=most)		1-10					5%	
ORGANIZATIONAL CAPABILITY (Ability to complete work in a timely manner, size of firm(s) relative to size of project, proposed project staff resources, proposed use of subconsultants) (1=least, 10=most)		1-10					20%	
PRESENT WORKLOAD WITH DEPARTMENT ** (Dollar value of present outstanding fee including estimated pending contracts under negotiation. For limited services term contracts, include the amount of all task orders executed or under negotiation Work being performed under the Public Private Transportation Act (PPTA) or as a subcontractor on a Design-Build project shall not be included. Work being performed as a prime or joint venture on a Design-Build project shall be included.) † (Only Category ___ workload is counted on this selection*)	Above $8,000,000 7,000,001-8,000,000 6,000,001-7,000,000 5,000,001-6,000,000 4,000,001–5,000,000 3,000,001-4,000,000 2,000,001-3,000,000 1,500,001-2,000,000 1,000,001-1,500,000 500,001-1,000,000 0-500,000	0 1 2 3 4 5 6 7 8 9 10					10%	
							TOTAL	

*CATEGORIES OF WORKLOAD:

A - TERM SURVEYING AND UTILITY DESIGNATION/LOCATION CONTRACTS

B - PRELIMINARY ENGINEERING CONTRACTS - includes transportation planning and environmental studies, utility relocation and design, and roadway and bridge design.

C - CONSTRUCTION ENGINEERING CONTRACTS - includes construction inspection, preparation of final estimates, and bridge and traffic structure safety inspection.

D - OPERATION AND MAINTENANCE CONTRACTS - includes operation and maintenance of traffic management systems.

**When determining total Present Workload with Department, the outstanding workload of each DBE/SWaM subconsultant will not be counted.

† The outstanding workload of any certified DBE or SWaM prime and subconsultant is not to be included. When a DBE or SWaM firm graduates from the program, their workload incurred while a DBE or SWaM will be exempted for the next three years. Any work obtained after graduating from the program will be counted.

In determining the final short list, the top ranked firms and their subconsultants will have their VDOT Consultant Performance Reports reviewed and/or references checked.

4.1 *GOOD FAITH EFFORT*

(Federally funded project with DBE Goal; **until further notice, DBE goals will not be assigned to consultant service contracts**)

The Department will accept what consultants submit in their EOI regarding good faith efforts. If a firm that has submitted good faith effort documentation makes the short list, the procuring Division Administrator (cannot be delegated unless he/she will be out of the office for more than five work days) along with a representative of the EO Division will determine if the good faith effort is acceptable.

When there is a contract goal, a consultant must make good faith efforts to meet it. The consultant can do so either through obtaining enough DBE participation to meet the goal or documenting the good faith efforts it made to do so. These means of meeting contract goal requirements are fully equivalent. 49 CFR Part 26 (the Rule) explicitly provides that the Department must not disregard showings of good faith efforts, and it gives consultants the right to have the Department reconsider a decision that their good faith efforts were insufficient. The Department is prohibited from denying a contract to a consultant simply because it did not obtain enough DBE participation to meet the goal. The Department must seriously consider consultants' documentation of good faith efforts. To make certain that consultants' showings are taken seriously, the Rule requires the Department to offer administrative reconsideration to consultants whose good faith efforts showings are initially rejected.

The Rule also ensures flexibility for consultants by requiring that any contract goal be waived entirely for a prime consultant that demonstrates that it made good faith efforts but was still unable to meet the goal.

When the Department sets a contract goal, the basic obligation of consultants is to make good faith efforts to meet it. They can demonstrate these efforts in either of two ways, which are equally valid. First, they can meet the goal, by documenting that they have obtained commitments for enough DBE participation to meet the goal. Second, even though they have not met the goal, they can document that they have made good faith efforts to do so. A refusal by the Department to accept valid showings of good faith is not acceptable under the Rule.

The Rule makes clear that the Department is not to use a "conclusive presumption" approach, in which the apparent successful consultant is summarily found to have failed to make good faith efforts simply because another consultant was able to meet the goal. However, the performance of other consultants in meeting the contract can be a relevant factor in a good faith effort determination, in more than one way. For example, when the apparent successful consultant fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful consultant could have met the goal. It does not, by itself, prove that the apparent successful consultant did not make a good faith effort to get DBE participation, however. On the other hand, if the apparent successful consultant fails to meet the goal, but meets or exceeds the average DBE participation obtained by other consultants, the Department may view this, in conjunction with other factors, as evidence of the apparent successful consultant having made good faith efforts.

The fact that some additional costs may be involved in finding and using DBEs is not in itself sufficient reason for a consultant's failure to meet a DBE contract goal, as long as such costs are reasonable.

If the Department determines that the apparent successful consultant has failed to meet the requirements of a good faith effort, the Department must, before awarding the contract, provide the consultant an opportunity for administrative reconsideration. The Department intends that the process be informal and timely. The Department will ensure that the process is completed within a brief period (e.g., 5-10 days) to minimize any potential delay in procurements. The consultant will have an opportunity to meet with the reconsideration official, but a formal hearing is not required. As part of this reconsideration, the consultant must have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The Department's decision on reconsideration will be made by an official who did not take part in the original determination that the consultant failed to meet the goal or make adequate good faith efforts to do so. The consultant must have the opportunity to meet in person with the reconsideration official to discuss the issues of whether it met the goal or made adequate good faith efforts to do so. The Department will send the consultant a written decision on reconsideration, explaining the basis for finding that the consultant did or did not meet the goal or make adequate good faith efforts to do so. The Department's reconsideration personnel consists of the Commissioner's DBE Review Panel.

It is up to the Department to make a fair and reasonable judgment whether a consultant that did not meet the goal made adequate good faith efforts. It is important for the Department to consider the quality, quantity, and intensity of the different kinds of efforts that the consultant has made. The efforts employed by the consultant should be those that one could reasonably expect a consultant to take if the consultant were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. The Department's determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

If DBE is prime, they will be allowed to count toward goals the work they commit to performing with their own forces, as well as the work that they commit to be performed by DBE subcontractors. DBE consultants on prime contracts will be expected to make the same outreach efforts as other consultants.

When a DBE participates in a contract, the Department will count only the value of the work actually performed by the DBE toward DBE goals. When a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. Count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract. If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, you must presume that it is not performing a commercially useful function. If a DBE firm loses certification, its work no longer counts toward the DBE goal.

All consultants will be required to submit the following information to the Department with the EOI:

- The names and addresses of DBE firms that will participate in the contract;
- A description of the work that each DBE will perform;
- The percentage amount of the participation of each DBE firm participating;

- Written documentation of the prime consultant's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
- Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
- If the contract goal is not met, evidence of good faith efforts.

The Department has prepared a list based on Federal Regulations of some of the kinds of efforts that consultants may make in obtaining DBE participation. It is not intended to be a mandatory checklist. The Department does not require that a consultant do any one, or particular combination, of the things on the list, nor is the list intended to be exclusive or exhaustive; it merely offers examples. Other factors or types of efforts may be relevant in appropriate cases. In determining whether a consultant has made good faith efforts, it will usually be important for the Department to look not only at the different kinds of efforts that the Consultant has made, but also of the timeliness, quantity, and intensity of these efforts.

The Department offers the following examples of efforts that may be considered:

A. Soliciting through all reasonable and available means (e.g., attendance at project showings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The consultant must solicit this interest within sufficient time to allow the DBEs to participate effectively. The consultant must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime consultant might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract.

D. (1) Negotiating in good faith with interested DBEs. It is the consultant's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

D. (2) A consultant using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's costs, qualifications and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a consultant's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime consultant to perform the work of a contract with its own organization does not relieve the consultant of the responsibility to make good faith efforts. Prime consultants are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough

investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations {for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

H. Effectively using the services of available minority community organizations; minority contractors' groups; local, state, and Federal minority business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

Revised: May 23, 2008

MEMORANDUM OF AGREEMENT

FOR

[INSERT BRIEF DESCRIPTION]

STATE PROJECT NUMBER: [STATE PROJECT NUMBER]

FEDERAL PROJECT NUMBER: [FED. PROJECT NUMBER]

ROUTE NUMBER: [ROUTE NUMBER]

[CITY/COUNTY]

VDOT

Virginia Department of Transportation

LETTER OF AGREEMENT

1. CONTRACTING PARTIES: This Agreement is between the <Local Government>, hereinafter referred to as “the Locality,” and

[NAME OF CONSULTANT]
[ADDRESS]
[CITY, STATE, ZIP]
Fed. ID #: [FED. ID #]

hereinafter referred to as “the Consultant.”

[INCLUDE THE FOLLOWING LANGUAGE IF THE VOUCHER PAYMENT IS TO BE SENT TO AN ADDRESS DIFFERENT FROM THE ABOVE ADDRESS.]

Payment remittance shall be sent to the following address:

[NAME OF CONSULTANT]
[ADDRESS]
[CITY, STATE, ZIP]
Fed. ID #: [FED. ID #]

2. DESCRIPTION AND LIMITS OF PROJECT: This Agreement is for:

[BRIEF DESCRIPTION OF SERVICES TO BE PROVIDED].

The following items of work shall be subcontracted to:

[NAME OF SUBCONSULTANT]

[ADDRESS OF SUBCONSULTANT]

[ITEMS OF WORK]

*Disadvantaged Business Enterprise

3. INCLUDED DOCUMENTS: This Agreement shall consist of the following documents:

a. This signed Letter of Agreement;

b. Certifications of the Consultant and the <Local Government>;

c. The following Attachments:

Attachment A – General Terms and Conditions

Attachment B – Special Terms and Conditions

Attachment C -- Payment

Attachment D – Scope of Work and Fee Proposal

Attachment E – Year 2000 Compliance

In the event of any conflict between a provision in Attachment A and a provision in Attachment B, the conflicting provision in Attachment B shall govern this Agreement.

4. CONSIDERATION: This is a [Lump Sum/Cost Plus Net Fee/Fixed Billable Rate] contract.

The Consultant will be paid a maximum compensation of $[LUMP SUM FEE] for services authorized by this Agreement. [USE THIS WORDING ON LUMP SUM AGREEMENTS]

The maximum total compensation payable to the Consultant for services authorized by this Agreement will not exceed $[MAXIMUM COMPENSATION PAYABLE]. [USE THIS WORDING ON COST PLUS NET FEE/FIXED BILLABLE RATE AGREEMENTS]

[The maximum compensation payable for each [SHOW PHASE/STAGE AS REQUIRED] is as follows:]

[COST PLUS-SHOW NET FEE AND MAXIMUM COMPENSATION]

5. TIME TO COMPLETE WORK: [Plans/Reports/etc.] shall be completed and delivered to the <Local Government> within the periods specified in the progress schedule included in Attachment D.
[INCLUDE THE FOLLOWING LANGUAGE IF A TERM CONTRACT: Any work underway at the expiration of this Agreement shall be completed by the Consultant under the terms of the Agreement. Services to be performed by the Consultant under this Agreement shall be for project assignments made during a period of the earlier of one calendar year, commencing on the date of this Agreement, or when the cumulative total of fees for project assignments issued reaches the maximum total compensation. The Agreement may be renewable for two additional one year terms at the option of the <Local Government>.]

6. INTENT: It is the intent of this Agreement that the Consultant, employing qualified, competent and experienced personnel, shall perform the stated services equal to the practice prevalent among consultants within the subject area of work and commensurate with the magnitude and intricacy of the work under consideration. These services shall be so complete that it will not be necessary for the <Local Government> to supplement any of the operation by its own personnel, except as noted.

[INCLUDE THE FOLLOWING LANGUAGE IF A MULTI-PHASE CONTRACT: The services under this Agreement will be performed as a multi-phase professional services contract. Upon satisfactory completion of Phase I and the determination of the scope of the

additional services to be performed in subsequent phases, fair and reasonable compensation will be negotiated for a Supplemental Agreement to perform the services. In the event that the <Local Government> and the Consultant cannot agree on fair and reasonable compensation for the additional phases, the <Local Government> reserves the right to terminate this Agreement in accordance with the relevant provisions in Attachment A.]

7. SIGNATURES: The parties hereto agree to abide by all the provisions of this Agreement.

IN WITNESS WHEREOF, the parties sign and cause this Agreement to be executed on this the _____ day of _____, 20_____.

_____ _____ _____ _____

[NAME] Date [NAME] [TITLE] Date

_____

[NAME OF CONSULTANT'S FIRM]

_____ _____

<Local Government Authorized Official> Date

_____ _____ _____ _____

Signature of Witness Date Signature of Witness Date

VDOT REVIEW

EXTERNAL & CONSTRUCTION AUDIT _____ Date:_____

CERTIFICATION OF CONSULTANT

I hereby certify that I am a duly authorized representative of [CONSULTANT], located at [ADDRESS OF CONSULTANT], and that neither I, nor the above firm I here represent, has:

a. Employed or retained for a commission, percentage, brokerage, contingent fee, or other consideration, any firm or person (other than a bona fide employee working solely for me or the above consultant) to solicit or secure this Agreement,
b. Agreed, as an express or implied condition for obtaining this Agreement, to employ or retain the services of any firm or person in connection with carrying out the Agreement, or
c. Paid or agreed to pay, to any firm, organization or person (other than a bona fide employee working solely for me or the above consultant), any fee, contribution, donation, or consideration of any kind for, or in connection with, procuring or carrying out the Agreement, except as here expressly stated (if applicable): _____ _____ _____.

I acknowledge that this certificate is to be furnished to the <Local Government>, in connection with any agreement involving participation of Federal-Aid highway funds, and is subject to applicable state and federal laws, both criminal and civil.

_____	_____	_____
Signature	Title	Date

CERTIFICATION OF THE <LOCAL GOVERNMENT>
[NAME OF CONSULTING FIRM]

I hereby certify that I am a duly authorized representative of the <Local Government> , and that the above consulting firm or its representative has not been required, directly or indirectly, as an express or implied condition in connection with obtaining or carrying out this Agreement to:

a. employ or retain, or agree to employ or retain, any firm or person, or
b. pay, or agree to pay, to any firm, person, or organization, any fee, contribution, donation, or consideration of any kind, except as here expressly stated (if applicable): _____
_____
_____.

I acknowledge that this certificate is to be furnished to the Federal Highway Administration, U. S. Department of Transportation, in connection with this Agreement involving participation of federal-aid highway funds, and is subject to applicable state and federal laws, both criminal and civil.

_____ _____ _____

Signature Title Date

ATTACHMENT A

GENERAL TERMS AND CONDITIONS

Virginia Department of Transportation

ATTACHMENT A – GENERAL TERMS AND CONDITIONS

1. COMPLIANCE WITH LAWS AND REGULATIONS: The Consultant shall keep fully informed of all federal, state, and local laws, ordinances, and regulations, and all orders and decrees of bodies or tribunals having any jurisdiction or authority, which in any manner affect those engaged or employed on this Agreement, or which in any way affect the conduct of the services provided by the Consultant. It shall at all times observe and comply with, and shall cause its agents, subcontractors and employees to observe and comply with, all such laws, ordinances, regulations, orders, and decrees; and shall protect and indemnify the <Local Government> and its employees and appointees against any claim or liability arising from or based on the violation of any such law, ordinance, regulation, order, or decree, whether by itself or its agents, subcontractors or employees. If any discrepancy or inconsistency is discovered between this Agreement and any such law, ordinance, regulation, order, or decree, the Consultant shall immediately report the same to the Department in writing.

2. VIRGINIA PROHIBITED EMPLOYMENT DISCRIMINATION: The Consultant, its agents, employees, assigns or successors, and any person, firm, or agency of whatever nature with whom it may contract or make an agreement, shall comply with the provisions of the Section 2.2-4311 of the Code of Virginia (1950), as amended. During the performance of this Agreement, the Consultant agrees as follows:

a. The Consultant will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or other basis prohibited by state law relating to discrimination in employment, except where there is a bona fide occupational qualification reasonably necessary to the normal operation of the Consultant. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
b. The Consultant, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, will state that the Consultant is an equal opportunity employer.
c. Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for the purpose of meeting the requirements of this section.

The Consultant will include the provisions of the foregoing paragraphs “a”, “b” and “c” in every subcontract or purchase order of over ten thousand dollars, so that such provisions will be binding upon each subcontractor or vendor.

3. NON-DISCRIMINATION PROVISION: The Consultant agrees to abide by the provisions of Title VI and Title VII of the Civil Rights Act of 1964 (42 USC 2000e), which prohibits discrimination against any employee or applicant for employment, or any applicant or recipient of services, on the basis of race, religion, color, sex or national origin; and further agrees to abide by Executive Order No. 11246 entitled “Equal

Employment Opportunity," as amended by Executive Order No. 11375 and as supplemented in the Department of Labor Regulations (41 CFR Part 60), which prohibit discrimination on the basis of age. Section 49 CFR 21 is incorporated by reference in all contracts and subcontracts funded in whole or in part with federal funds. The Consultant shall comply with the Americans with Disabilities Act (ADA), and with the provisions of the Virginians with Disabilities Act, Sections 51.5-40 through 51.5-46 of the Code of Virginia (1950), as amended, the terms of which are incorporated herein by reference.

In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, the <Local Government> shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

a. withholding of payments to the Consultant under this Agreement until the Consultant complies; and/or
b. cancellation, termination or suspension of this Agreement, in whole or in part.

4. TITLE VI OF THE CIVIL RIGHTS ACT OF 1964: During the performance of this Agreement, the Consultant, for itself, its assignees and successors in interest (herein referred to as "the Consultant"), agrees as follows:

a. Compliance with Regulations: The Consultant will comply with the Regulations of the U.S. Department of Transportation relative to nondiscrimination in Federally-assisted programs of the U.S. Department of Transportation (Title 49), Code of Federal Regulations, Part 21, (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this Agreement.
b. Nondiscrimination: The Consultant, with regard to the services provided by it after award and prior to completion of this Agreement, will not discriminate on the grounds of race, religion, color, sex, national origin, age or handicap in the selection and retention of subconsultants, including procurements of materials and leases of equipment. The Consultant will not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the services cover a program set forth in Appendix B of the Regulations.
c. Solicitations for Subconsultants: In all solicitations, either by competitive bidding or negotiation made by the Consultant for work to be performed under a subcontract, including procurements of materials or equipment, each potential subcontractor or supplier shall be notified by the Consultant of the Consultant's obligations under this Agreement.
d. Information and Reports: The Consultant will provide all information and reports required by the Regulations, or orders and instructions issued pursuant thereto, and will permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Department or the Federal Highway Administration to be pertinent to ascertain compliance with

such Regulations, orders and instructions. Where any information required of the Consultant is in the exclusive possession of another who fails or refuses to furnish this information, the Consultant shall so certify to the Department, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information. Consultants and subconsultants with 15 or more employees will submit an updated Title VI Evaluation Report (EEO-D2) annually as long as the consultant or subconsultant is performing in accordance with this Agreement.

e. Sanctions for Noncompliance: In the event of the Consultant's noncompliance with the nondiscrimination provisions of this Agreement, the Department shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:
    1) withholding of payments to the Consultant under this Agreement until the Consultant complies, and/or
    2) cancellation, termination or suspension of this Agreement, in whole or in part.

f. Incorporation of Provisions: The Consultant will include the provisions of paragraphs "a" through "f" in every subcontract of $10,000 or more, including procurements of materials and leases of equipment, unless exempt by the Regulations, order or instructions issued pursuant thereto. The Consultant will take such action with respect to any subcontractor or procurement as the <Local Government> or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for noncompliance: Provided, however, in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Consultant may request the <Local Government> to enter into such litigation to protect the interests of the <Local Government> and, in addition, the Consultant may request VDOT and the United States to enter into such litigation to protect the interests of the Commonwealth and United States.

5. CERTIFICATION REGARDING NON-SEGREGATED FACILITIES: By the execution of this Agreement, the Consultant certifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that it does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location under its control, where segregated facilities are maintained. The Consultant further certifies that no employee will be denied access to adequate facilities on the basis of sex or disability. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are segregated by explicit directive or are in fact segregated on the basis of race, creed, color, national origin, age or handicap, because of habit, local custom or otherwise. It agrees that, except where it has obtained identical certification

from proposed subcontractors and material suppliers for specific time periods, it will obtain identical certification from proposed subcontractors or material suppliers prior to the award of subcontracts or the consummation of material supply agreements exceeding ten thousand dollars, and that it will retain such certifications in its files.

6. DISADVANTAGED BUSINESS ENTERPRISES/SMALL, WOMAN AND MINORITY BUSINESS: The Consultant, its agents, employees, assigns, or successors, and any person, firm or agency of whatever nature with whom it may contract or make an agreement, shall comply with the provisions of 49 CFR Part 26, as amended, which is hereby made part of this Agreement by reference. The Consultant shall take all necessary and reasonable steps in accordance with 49 CFR Part 26, as amended, to ensure that DBE firms have the maximum opportunity to compete for and perform contracts and subcontracts under this Agreement. Subpart E of 49 CFR 26, Section 26.13 requires each contract signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.
Further, the Consultant agrees to provide the <Local Government> with the dollar amount contracted and name of each subcontractor which identifies itself as a DBE. [Include the following wording on contract with DBE Goals: The DBE goal for this Contract is ___%.] {necessary when goals are set}

In accordance with the Governor's Executive Order No. 33, the VDOT also requires the utilization of Small, Women and Minority (SWaM) Businesses to participate in the performance of consultant contracts. The Consultant shall take all necessary and reasonable steps in accordance with Executive Order No. 33, to ensure that SWaM firms have the maximum opportunity to compete for and perform contracts and subcontracts under this Agreement. Further, the Consultant agrees to provide the <Local Government> with the dollar amount contracted and name of each subcontractor which identifies itself as a SWaM. [Include the following wording on contract with SWaM Goals: The Swam goal for this Contract is ___%.]

VDOT is also required to capture DBE and SWaM payment information on all professional services contracts. Therefore, the prime consultant will be required to complete the DBE and SWaM Payment Compliance Report, C-63 form on a quarterly basis.

In the event of the Consultant's noncompliance with the DBE/SWaM participation for the services indicated in Expression of Interest in response to the RFP, Attachment D, Scope of Work and Fee Proposal of this Agreement, the <Local Government> shall

impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including but not limited to:

a. Withholding of payments to the Consultant under this Agreement until the Consultant complies, and/or

b. Cancellation, termination or suspension of this Agreement, in whole or in part.

7. TDD/TTY EQUIPMENT FOR THE DEAF: When seeking public participation through the maintenance of a toll free hot line number and/or publishing project-related materials, the Consultant agrees to ensure that all citizens have equally effective communication. The Consultant agrees to provide or identify a telecommunications device for the deaf/teletypewriter (TDD/TTY) or acceptable means of telephone access for individuals with impaired speech or hearing. The Consultant will provide notice of a TDD/TTY number whenever a standard telephone number is provided.

8. IMMIGRATION REFORM AND CONTROL ACT OF 1986: By signing this Agreement, the Consultant certifies that it does not and will not during the performance of this Agreement violate the provisions of the Federal Immigration Reform and Control Act of 1986, which prohibits employment of illegal aliens.

9. OCCUPATIONAL SAFETY AND HEALTH STANDARDS: The Consultant shall not require any individual employed in the performance of this Agreement to work in surroundings or under working conditions which are unsanitary, hazardous, or dangerous to health or safety as determined under the Occupational Safety and Health Standards promulgated by the United States Secretary of Labor. This provision shall be made a condition of any subcontract entered into pursuant to this Agreement.

In addition, the Consultant shall abide by the Virginia Occupational Safety and Health Standards adopted under Section 40.1-22 of the Code of Virginia (1950), as amended, and will fulfill the duties imposed under Section 40.1-51.1 of the Code of Virginia. Any violation of the aforementioned requirements or duties which is brought to the attention of the Consultant by any person shall be immediately abated.

10. CERTIFICATION REGARDING DEBARMENT: By the execution of this Agreement, the Consultant certifies to the best of its knowledge and belief, that it and its principals:

a. Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;
b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal

offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; and have not been convicted of any violations of federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in paragraph (b) of this certification; and
d. Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

11. LEGAL JURISDICTION: This Agreement shall be construed and shall be governed in accordance with the Constitution and the laws of the Commonwealth of Virginia.

12. SEVERABILITY: The declaration by any court, or other binding legal source, that any provision of this Agreement is illegal and void shall not affect the legality and enforceability of any other provision of this Agreement, unless said provisions are mutually dependent.

13. FINAL ACCEPTANCE AND FINAL PAYMENT: All services performed under this Agreement shall be performed in accordance with the current standards, policies, and procedures of the <Local Government>, and in the case of projects using federal funds, the Federal Highway Administration (FHWA). All services shall be subject to the approval of the VDOT through its designated representatives.

Upon receipt of a written notice from the Consultant of completion of the services, the <Local Government> will make a review to determine if all services specified in the Agreement have been satisfactorily completed. If all services have been satisfactorily completed, the <Local Government> will make final acceptance. The Consultant will be notified of final acceptance in writing.

If the review discloses that any services, in whole or in part, are incomplete or unacceptable, the Consultant shall immediately correct the deficiency. Upon completion or correction of the services, another review will be made that will constitute the final review. In such event, providing the services are complete and acceptable, the <Local Government> will make the final acceptance and the Consultant will be notified of final acceptance in writing.

When final acceptance has been duly made by the <Local Government>, the Consultant shall submit a final estimate voucher. Except as provided for in Section 17, any disputes or claims between the Consultant and the <Local Government> or between the Consultant and any subconsultant shall have been resolved prior to the final estimate being submitted. Upon review and approval of the final estimate voucher

by the <Local Government>, the Consultant will be paid the entire sum due after previous payments are deducted and other amounts are retained or deducted under the provisions of the Agreement. Final payment will become due and the final estimate paid within sixty (60) calendar days after approval of the final estimate voucher. The <Local Government> will notify the Consultant in writing when the final payment is made. Payments shall be subject to correction at the time of the final audit.

14. CLAIMS FOR ADDITIONAL TIME OR COMPENSATION: Claims for services not clearly authorized by this Agreement, or not ordered by the <Local Government> by prior written authorization, shall not be paid, nor shall any additional time be granted to complete the services. The Consultant shall notify the <Local Government> in writing, and wait for written approval, before it begins providing services not previously authorized. If such notification and approval is not given or the claim is not properly documented, the Consultant shall not be paid the extra compensation, nor be granted any additional time. Proper documentation alone shall not prove the validity of the claim. If the claim is found to be valid, it shall be allowed and paid for in accordance with the terms of a supplemental agreement.

15. AGREEMENT MODIFICATION: The <Local Government> may, at any time, by written order, make any changes in this Agreement which either increase or decrease the services hereunder. If such change causes an increase or decrease in the cost of or the time required for performance of this Agreement, an equitable increase or decrease in consideration may be made and this Agreement shall be modified in writing by a Supplemental Agreement between the <Local Government> and the Consultant. The Supplemental Agreement shall set forth the proposed changes in services, extension of time for completion and adjustment of the compensation, including net fee, to be paid the Consultant, if any. If the parties fail to agree upon the adjustment to be made, the dispute shall be determined as provided in this Agreement, but nothing in this section shall excuse the Consultant from promptly and diligently proceeding with the prosecution of the services so changed.

16. DELAYS: If the services provided for under this Agreement should be delayed due to factors or conditions beyond the control of the Consultant and through no fault or negligence on its part, the Consultant may apply in writing for an extension of time and/or an adjustment in compensation. This request shall be accompanied by substantiating data to justify any extension of time and/or adjustment in compensation. If, in the opinion of the <Local Government>, a delay due to factors and conditions beyond the Consultant's control is justified, the Consultant may be granted an extension of time and/or adjustment in compensation.

17. DISPUTES: Any contractual claim in connection with the services provided, whether for money or other relief, not disposed of by mutual agreement shall be submitted in writing no later than sixty (60) days after final payment; however, written notice of the Consultant's intention to file such a claim shall have been given at the time

of the occurrence or beginning of the services upon which the claim is based. Submission of a notice of claim as specified shall be mandatory. Failure to submit such a notice shall be a conclusive waiver of such claim by the Consultant. An oral notice or statement will not be sufficient nor will a notice or statement after the event.

At the time of occurrence or prior to providing the services, the Consultant shall furnish the <Local Government> an itemized fee proposal for which additional compensation will be claimed. The Consultant shall keep a separate record of actual cost for the services. Failure on the part of the Consultant to afford the <Local Government> proper records of actual costs will constitute a waiver of a claim for such extra compensation except to the extent that it is substantiated by the <Local Government>'s records. The filing of such notice by the Consultant and the keeping of cost records by the Consultant shall in no way establish the validity of a claim. The data furnished by the Consultant shall be subject to a complete audit by the <Local Government> or its authorized representative if they are to be used as a basis for claim settlement.

Upon completion of the Agreement, the Consultant may, within sixty (60) days from the date of final payment, submit to the <Local Government> a written claim for the amount he deems he is entitled to under the Agreement. The final payment date shall be that date set forth in a letter from the <Local Government> to the Consultant at the time the final estimate is submitted to the <Local Government>'s Fiscal Division for vouchering. The claim shall set forth the facts upon which the claim is based. The Consultant shall include all pertinent data and correspondence that may substantiate the claim. Within ninety (90) days from receipt of the claim, the <Local Government> will make an investigation and notify the Consultant of its decision.

If the consultant is dissatisfied with the decision, he shall notify the <Local Government> Chief Administrative Officer in writing within thirty (30) days from receipt of the <Local Government>'s decision that he desires to appear before him, whether in person or through counsel, and present additional facts and arguments in support of his claim. The <Local Government> Chief Administrative Officer will schedule and meet with the Consultant within thirty (30) days after receiving the request. Within forty-five (45) days from the date of the meeting, the <Local Government> Chief Administrative Officer will investigate the claim, including the additional facts presented, and notify the Consultant in writing of his decision. If the <Local Government> Chief Administrative Officer deems that all or any portion of a claim is valid, he shall have the authority to negotiate a settlement with the Consultant subject to the provisions of Section 2.2-514 of the Code of Virginia 1950 as amended. If dissatisfied with the decision, the Consultant shall be entitled to institute judicial review if such action is brought within six months of receipt of the <Local Government> Chief Administrative Officer's written decision. Any civil action by the Consultant shall be subject to the provisions of Section 2.2-4363 (D) of the Code of Virginia (1950), as amended.

Upon completion of the final audit, the Consultant may, within sixty (60) days from the date of receipt of the final audit letter from the <Local Government>, submit to the <Local Government> a written claim for the amounts he disputes in the final audit. The dispute resolution process will be the same as outlined above for claims.

Any monies that become payable as the result of claim settlement after payment of the final estimate or final audit dispute resolution will not be subject to payment of interest unless such payment is specified as a condition of the claim settlement.

18. CONFLICTS OF INTEREST: No member of or delegate to the Congress of the United States shall be entitled to any share or part of this Agreement or to any benefit arising there from. The Consultant shall not engage the services of any person employed by the <Local Government> on any services covered by this Agreement without written permission of the <Local Government>. Written permission will not be granted for any employee having official responsibility, as that term is defined in Section 2.2-4368 of the Code of Virginia, who dealt in an official capacity with the Consultant concerning procurement during his employment or for a period of one year from cessation of employment by the <Local Government> unless the employee or former employee provides written notification to the <Local Government> and receives written permission prior to commencement of employment by the Consultant. Any violation of these provisions by the Consultant shall be a basis for immediate termination of this agreement for cause.

19. COVENANT AGAINST CONTINGENCY FEES: The Consultant warrants that it has not employed or retained any company or person to solicit or secure this Agreement and that it has not paid or agreed to pay any company or person, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, brokerage fee, gifts or any other consideration contingent upon or resulting from the award or making of this Agreement.

For breach or violation of this warranty, the <Local Government> shall have the right to void this Agreement without liability or, at its discretion, to deduct from the Agreement price or consideration, or otherwise recover, the full amount of such fee, commission, brokerage fee, gift, or contingent fee.

20. INSURANCE: The Consultant shall furnish the <Local Government> a certificate evidencing comprehensive commercial general liability insurance in an amount acceptable to the <Local Government> prior to beginning any work on the project, and agrees to maintain this amount throughout the life of this Agreement.

The Consultant shall provide the <Local Government> with a certificate evidencing professional liability insurance in an amount acceptable to the <Local Government> and agrees to maintain this amount through the life of this Agreement.

The Consultant shall provide the <Local Government> with a certificate evidencing

worker's compensation insurance as required by law by an insurer authorized to transact the business of worker's compensation insurance in this Commonwealth or in compliance with Section 65.2-801 of the Code of Virginia (1950), as amended, and agrees to maintain this amount through the life of this Agreement.

In the event of a non-renewal or cancellation of such required insurance coverage, thirty (30) days written notice must be given to the <Local Government> prior to such non-renewal or cancellation. Certificates evidencing insurance shall be submitted annually to the <Local Government>.

21. PROGRESS SCHEDULE AND REPORTS: The Consultant shall furnish the <Local Government> a schedule of progress which it proposes to follow throughout the term of this Agreement. No services shall commence until such schedule has been approved in writing by the <Local Government>. The schedule shall indicate starting and completion times of each significant task for each major element of this Agreement, and shall have the capability of indicating the proposed percentage of completion at any point for each element, if so required by the <Local Government>.

The Consultant shall submit a monthly progress report in a format acceptable to the <Local Government>.

22. PLANS AND REPORTS: Plans and reports shall be completed and delivered to the <Local Government> according to the progress schedule or as otherwise directed, in a format acceptable to the <Local Government>.

23. CORRECTION OF ERRORS: The Consultant shall check for accuracy any reports, and the design, drafting and details of final plans prior to submission. The Consultant will be required, without additional compensation, to correct any errors, including but not limited to omissions, discrepancies and ambiguities, in any services performed in fulfillment of the obligations of this Agreement, and shall also reimburse the <Local Government> for any costs incurred. Acceptance of the plans or reports by the <Local Government> shall not relieve the Consultant of the responsibility of subsequent correction of errors.

Costs incurred by the Consultant in correcting errors in the plans or reports and reimbursing the <Local Government> for costs incurred by the <Local Government> as a result of such error shall be maintained in a separate account. Such account shall be clearly coded and identified, and shall be subject to audit by the Department. Such costs shall not be billed to the <Local Government> as a direct charge or an overhead item.

24. LIABILITY, INDEMNIFICATION, STANDARD OF PERFORMANCE: The Consultant shall be responsible for all damage and expense to person or property

caused by its negligent activities including, without limitation, those which it chooses to deliver through its subcontractors, agents or employees, in connection with the services required under this Agreement. Further, it is expressly understood that the Consultant shall indemnify, defend and hold harmless the <Local Government>, its officers, agents and employees from and against any and all damages, claims, suits, judgments, expenses, actions and costs of every name and description caused by any negligent act or omission in the performance by the Consultant, including, without limitation, those which it chooses to deliver through its subcontractors, agents or employees, of the services under this Agreement.

The Consultant shall also be liable for all damages, costs and additional expense incurred by the Department, including but not limited to damages, costs and expenses resulting from claims brought against the <Local Government> by the construction contractor(s), caused by the failure of the Consultant to perform the services with the same degree and standard of care and skill normally expected of and provided by consultants in the performance of the same or similar services.

Acceptance of the services by the <Local Government> shall not waive any of the rights of the <Local Government> contained in this section nor release or absolve the Consultant from any liability, responsibility or duty contained herein.

25. TERMINATION: This Agreement may be terminated as follows:

a. By mutual agreement of the parties, in writing and signed by the parties.
b. By the <Local Government> without cause, in whole or in part, at any time, with fifteen (15) days advance notice in writing, by the end of which period the Consultant shall have discontinued all services and shall have delivered to the <Local Government> all reports, records, drawings, field notes, plans and other data completed or partially completed, which shall become and remain the sole property of the <Local Government>. The <Local Government> reserves the right to terminate this Agreement without the fifteen (15) days advance notice in the event the Consultant avails itself of the Federal or State Bankruptcy Laws or merges with or spins off from an entity. The <Local Government>'s decision is not subject to review.
c. By the <Local Government> without advance written notice, due to the failure of the Consultant to perform the services or fulfill its obligation(s) under this Agreement, in which case the <Local Government> may take over the services and prosecute the same to completion by further agreement or otherwise, and the Consultant shall be liable to the <Local Government> for any excess cost occasioned to the Department thereby.
d. By failure of the <Local Government> to allocate, sufficient funds to continue the services, in which event the Agreement will terminate upon depletion of the then currently appropriated or allocated funds.

26. ASSIGNMENT AND SUBCONTRACTING: This Agreement, being intended to

secure the personal services of the individuals constituting the firm which is a party to this Agreement and referred to collectively as "the Consultant," shall not be assigned, subcontracted or transferred without consent of the <Local Government> in writing. This Agreement shall inure to the benefit of and shall be binding upon the personal representatives and legal successors of the respective parties hereto. Nothing contained in this Agreement is intended or shall be construed to inure to the benefit of any person or entity other than the parties hereto and their legal successors.

The Consultant shall not subcontract or assign all or any part of the services provided under this Agreement, except as expressly stated in this Agreement, without the prior written approval of the <Local Government>. Such consent to subcontract, assign or otherwise dispose of any portion of this Agreement shall not be construed to relieve the Consultant of any responsibility for the fulfillment of this Agreement. The Consultant is fully responsible for the satisfactory completion of all subcontracted services. Subcontracts shall include all provisions of this Agreement, except that retainage need not be withheld on subcontracts, and the Consultant shall be responsible for seeing that these provisions are complied with. No subcontracting by a subcontractor is allowed without prior written approval of the <Local Government>.

27. PAYMENT TO SUBCONTRACTORS: In accordance with Article 4 of the Virginia Public Procurement Act (Sections 2.2-4342 through 2.2-4356 of the Code of Virginia (1950), as amended), the Consultant shall make payment to all subcontractors within seven (7) days after receipt of payment from the <Local Government>, or shall notify the <Local Government> and subcontractor in writing of the intention to withhold all or a part of the amount due along with the reason for nonpayment.

In the event payment is not made as noted, the Consultant shall pay interest at the rate of one percent per month to the subcontractor, unless otherwise provided in this Agreement, on all amounts that remain unpaid after seven (7) days except for the amounts withheld according to this Agreement.

The <Local Government> does not require retainage to be withheld by the Consultant on any subcontracts. If the Consultant elects to withhold retainage on subcontracts, prompt payment of the retainage shall be made to the subcontractors within the later of 60 days after the final billing is received by the Consultant from the subcontractor or the satisfactory acceptance of the services by the Department. The <Local Government> will notify the Consultant and the subcontractor in writing when the services have been satisfactorily accepted. If the retainage is not promptly paid, the Consultant shall notify the Department and the subcontractor in writing as to the reasons for not making payment.

These same requirements shall be included in each subcontractor agreement and shall be applicable to each lower-tier subcontractor.

28. CONSULTANT RELATIONSHIPS TO CONTRACTORS: The Consultant shall serve only in a consulting and professional capacity and is not by this Agreement authorized to be, or represent itself to be the agent or servant of the <Local Government>. The function, duties and responsibilities of the Consultant with respect to any contractor employed by the <Local Government> in connection with a project shall be consistent with the preceding sentence, and in no case shall the Consultant assume any of the obligations of the <Local Government> to any contractor. The Consultant shall refer any questions from a contractor to the <Local Government>.

29. COMPLIANCE WITH LOBBYING RESTRICTIONS (This section only applies to agreements using federal funds.): By signing this Agreement, the Consultant certifies that:

a. Since promulgation of the federal requirements implementing Section 319 of PL 101-121, no federal appropriated funds have been paid and none will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of a federal contract, the making of any Federal grant, the making of any federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement;
b. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, the Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
c. The Consultant shall require that the language of this certification be included in all subcontracts at all tiers, and that all subcontractors shall certify and disclose accordingly.

30. RECORDS: The Consultant and subcontractors shall retain all books, documents, papers, accounting records and other evidence supporting the costs incurred, for three (3) years after payment of the final estimate or final audit, whichever is later. Such evidence shall be made available at the Consultant's offices at all reasonable times and will be subject to audit and inspection by the <Local Government>, VDOT or any authorized representatives of the Federal Government.

Evidence of costs incurred by a subcontractor shall be made available at its office at all reasonable times during the contract period between the Consultant and the subcontractor and for three years after written acceptance by the Consultant, for audit

and inspection by the <Local Government>, VDOT or any authorized representatives of the Federal Government. It shall be the Consultant's responsibility to notify the <Local Government>, in writing, of the completion of that subcontractor's portion of the services so that the records of the subcontractor can be audited within the three-year retention period. Failure to do so may result in the Consultant's liability for any costs not supported by the proper documentation for the subcontractor's phase of the services. Final payment for the subcontractor's phase of the services will be made after total costs are determined by the final audit of the subcontractor.

31. INTELLECTUAL PROPERTY RIGHTS: All rights in intellectual property developed or created pursuant to this Agreement shall be the sole property of the <Local Government>. "Intellectual property" includes all inventions subject to the U.S. Patent System (including but not limited to new processes, materials, compounds and chemicals), and all creations subject to the U.S. Copyright Act of 1976 (including but not limited to printed material, software, drawings, blueprints, and compilations such as electronic databases).

All copyrightable material created pursuant to this Agreement shall be considered work made for hire and shall belong exclusively to the <Local Government>. Neither party intends any copyrightable material created pursuant to this Agreement, together with any other copyrightable material with which it may be combined or used, to be a "joint work" under the copyright laws. If the whole or any part of any such copyrightable material cannot be deemed work made for hire or is deemed a joint work, the Consultant agrees to assign, and does hereby irrevocably assign, its entire copyright interest therein to the <Local Government> and shall execute and deliver such further documents as the <Local Government> may reasonably request for the purpose of acknowledging or implementing such assignment.

The Consultant warrants that no individual, other than regular employees of the Consultant or the <Local Government> working within the scope of their employment, shall participate in the creation of any intellectual property pursuant to this Agreement unless such individual and his or her employer, if any, have signed an intellectual property agreement satisfactory to the <Local Government>.

The <Local Government> shall have all rights, title and interest in or to any invention reduced to practice pursuant to this Agreement. The Consultant shall not patent any invention conceived in the course of performing this Agreement.

The Consultant hereby agrees that, notwithstanding anything else in this Agreement, in the event of any breach of this Agreement by the <Local Government>, the remedies of the Consultant shall not include any right to rescind or otherwise revoke or invalidate the

provisions of this section. Similarly, no termination of this Agreement by the <Local Government> shall have the effect of rescinding the provisions of this section.

32. OWNERSHIP OF DOCUMENTS: All documents, in electronic and/or hard copy format, which for purposes of this Agreement is defined to include but not be limited to, reports, plans, subject data ("subject data" is defined as all information , whether or not copyrighted, that is compiled or delivered or specified to be compiled or delivered under this Agreement), drawings, studies, specifications, memoranda, estimates and computations secured by and for the Consultant in the prosecution of this Agreement, shall become and remain the property of the <Local Government> upon termination or completion of the work. The <Local Government> shall have the right to use such documents for any public purpose without compensation to the Consultant, other than as hereinafter provided. If the <Local Government> uses the documents for a purpose other than for which this Agreement has been executed, such use shall be at the risk of the <Local Government>.

Except for its own internal use, the Consultant shall not publish or reproduce documents, in whole or in part, in any manner or form, nor shall the Consultant authorize others to do so without the written consent of the <Local Government>.

The <Local Government> reserves the right to publish initially all documents. The Consultant shall not release or publish any documents without the prior written approval of the <Local Government>. Neither the Consultant, nor any subcontractor or any agents, employees or subcontractors thereof, shall publish, participate in the publication of, or make oral presentations regarding any documents, information or material relating to this project, either during or after the term of this Agreement, without specific prior written approval of the <Local Government>. Any releases to the news media must be approved by and released through the <Local Government>.

The terms of this section shall be expressly included in any third-party agreement entered into by the Consultant or by any subcontractor, agents, employees or subcontractors thereof.

33. PUBLICATION PROVISIONS: No documents produced as part of this Agreement, and in whole or part with public funds, shall be copyrighted by the Consultant. When the project uses federal funds, any final report shall contain the following:

a. An acknowledgment, "Prepared in cooperation with the <Local Government>, U.S Department of Transportation, Federal Highway Administration and the Virginia Department of Transportation"
b. A disclaimer, "The contents of this report reflect the view of the Consultant who is

responsible for the facts and the accuracy of the data presented herein. The contents do not necessarily reflect the official views or policies of the <Local Government>, Federal Highway Administration or the Virginia Department of Transportation. This report does not constitute a standard, specification or regulation."

c. A statement, if published by either the <Local Government> or the Consultant, giving credit to all participating agencies.

In the event that VDOT does not subscribe to the conclusions of the report, the following statement shall be added: "The opinions, findings, and conclusions expressed in this publication are those of the authors and do not necessarily represent those of the Virginia Department of Transportation."

The terms of this section, shall be expressly included in any third-party agreement entered into by the Consultant or by any subcontractor, agents, employees or subcontractors thereof.

34. STAFFING BY CONSULTANT: The control and supervision of all phases of the services provided by the Consultant shall be under the direction of a project manager who has had not less than five (5) years experience in managing the type of services herein described and who shall be assigned to manage the services provided under this Agreement until all services have been completed or until the <Local Government> agrees in writing that the project manager may be replaced or removed.

Furthermore, other individuals identified as Key Personnel in the Expression of Interest (EOI) shall remain on the Consultant's Team for the duration of the contract. If extraordinary circumstances require a proposed change, it must be submitted in writing to the <Local Government>'s Project Manager, who, at his/her sole discretion, will determine whether to authorize a change. Unauthorized changes to the Consultant's Team at any time during the contract may result in termination of services.

If the services covered by this Agreement include the practice of architecture, professional engineering, land surveying or certified landscape architecture, the Consultant or subcontractor shall have in responsible charge at each place of business a full-time resident Virginia licensed architect, professional engineer, land surveyor or certified landscape architect exercising supervision and control of the services of each profession being practiced.

A competent staff, adequate in number and experience to perform the described services in the prescribed time, shall be assigned at all times. The name, title and experience record of each key staff member subsequently assigned shall be reported as such assignments are made.

If the services covered by this Agreement includes the application of guardrails and guardrail terminal treatments, a staff member that has satisfactorily completed training approved by the <Local Government> in the application of these devices, shall be assigned to perform the described services. Approved training course shall be completed prior to the initiation of the described services with the training being renewed every three (3) years. Approved training courses include, but are not limited to: Guardrail Installer Training (GRIT) for Designers offered by VDOT; AASHTO Roadside Design Guide conducted by the Federal Highway Administration; or Design, Construction and Maintenance of Highway Safety Appurtenances and Features conducted by the Federal Highway Administration.

35. CONFERENCES: The <Local Government> shall hold an initial conference at a place and time selected by the <Local Government>, for the purpose of reviewing the Consultant's schedules, procedures, methods and the clarification of any ambiguities that may then exist. A principal of the Consultant and the Consultant's project manager shall attend the conference.

Progress conferences will be held periodically. The Consultant will prepare and present written information and studies to the <Local Government> so it may evaluate the features and progress of the services being provided. Either party may request a conference be held at the office of the requesting party or at a place designated by the <Local Government>. Conferences may also be held to inspect the Consultant's services to date at the request of the <Local Government>.

36. LIAISON WITH CONSULTANT: The <Local Government> may assign and maintain one or more representatives on this Agreement at no cost to the Consultant. These representatives shall work in close cooperation with the Consultant to ensure a thorough understanding of all methods and procedures employed by the Consultant. The Consultant shall make such records, procedures and methods related to this Agreement available to these representatives as may be requested.

The <Local Government> reserves the right to make such reviews from time to time as it may deem necessary or desirable and to maintain proper liaison.

37. COORDINATION: The Consultant shall coordinate all plan development with the <Local Government> and VDOT to ensure compatibility with programmed and planned road improvement projects in the Agreement area.

38. TESTIMONY: In the event that the testimony of the Consultant is required in any

legal proceeding in connection with claims brought against or prosecuted by the <Local Government>, the Consultant agrees to appear as a witness on behalf of the <Local Government>. Payment for appearance will be based on the approved current hourly salary rate and daily per diem rate for each eight-hour day's preparation for, or attendance in, court and one-fourth of this sum for each two hours or fraction thereof.

39. NOTICE TO PROCEED: Work to be performed by the Consultant under this Agreement shall begin within five (5) days after receipt of official notice from the <Local Government> to proceed. Written notice to proceed will be given by the <Local Government> prior to any work being done on any element of this Agreement. The <Local Government> will not be responsible for payment for services performed in advance of such notice.

40. CONTINGENCY: On Agreements containing a contingency, the contingency shall not be used without written permission of the <Local Government>. The additional services provided under the contingency shall not begin until an agreement has been reached with the <Local Government> on the man-hours and costs required to perform the services. If services are provided under the contingency prior to an agreement being reached with the <Local Government> regarding man-hours and costs, only those man-hours and costs determined to be necessary and reasonable by the <Local Government> will be reimbursed.

41. DRUG-FREE WORKPLACE: During the performance of this contract, the Consultant agrees to:

a. Provide a drug-free workplace for the consultant's employees
b. Post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the consultant's workplace and specifying the actions that will be taken against employees for violations of such prohibition
c. State in all solicitations or advertisements for employees placed by or on behalf of the consultant that the consultant maintains a drug-free workplace
d. Include the provisions of the foregoing clauses in every subcontract or purchase order of over $10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purpose of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific contract awarded to a consultant, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the contract.

42. eVA ELECTRONIC PROCUREMENT: By accepting and performing this contract, the consultant agrees that it is subject to an eVA registration and transaction fee established by the Department of General Services (DGS) which will be invoiced to your company by DGS following the submittal of the first Consultant Estimate Voucher for payment. For further information on eVA registration and transaction fees refer to the following website; http://www.eva.state.va.us.

43. CRITICAL INFRASTRUCTURE INFORMATION/SENSITIVE SECURITY INFORMATION (CII/SSI): Contract documents or project material containing CII/SSI in whole or in part are subject to the terms of this Section.

Consultants shall be responsible for safeguarding Critical Infrastructure/Sensitive Security Information (CII/SSI) (as defined in the VDOT CII/SSI Policy) in their custody or under their control. Individuals are responsible for safeguarding CII/SSI entrusted to them. The extent of protection afforded CII/SSI shall be sufficient to reasonably foreclose the possibility of its loss or compromise.

Consultants shall ensure that all employees using this information are aware of the prohibition against disclosing CII/SSI in any manner (written, verbal, graphic, electronic, etc.) that permits interception by unauthorized persons.

Consultants shall protect CII/SSI at all times, either by appropriate storage or having it under the personal observation and control of a person authorized to receive it. Each person who works with protected CII/SSI is personally responsible for taking proper precautions to ensure that unauthorized persons do not gain access to it.

The use and storage of CII/SSI shall conform to the following guidelines: During working hours, reasonable steps shall be taken to minimize the risks of access to CII/SSI by unauthorized personnel. After working hours, CII/SSI shall be secured in a secure container, such as a locked desk, file cabinet or facility where contract security is provided.

The reproduction of CII/SSI documents or material containing CII/SSI shall be kept to the minimum extent necessary consistent with the need to carry out official duties. The reproduced CII/SSI material shall be marked and protected in the same manner as the original material.

Material containing CII/SSI shall be disposed of by any method that prevents unauthorized retrieval. (e.g. shredding, burning, returning to original source, etc.) CII/SSI shall be transmitted only by US first class, express (US Postal, FedEx, UPS, etc.), certified or registered mail, or through secure electronic means.

The portions of the documents that are marked as CII/SSI are not subject to disclosure under Code of Virginia §2.2-3705.2, and may not be released except with written

permission from the <Local Government> and/or VDOT. Unauthorized release or reproduction of these documents may result in civil penalty or other legal action.

By copying, downloading, or receiving a copy of any documentation containing CII/SSI, or any part thereof, the consultant or any other recipient acknowledges and agrees to the terms of this Section and will advise any individual using these documents, or any part thereof, that they too shall be responsible for safeguarding the CII/SSI in their custody or under their control.
The Consultant shall include the terms of this Section, in any further dissemination of any contract documents or project materials containing CII/SSI in whole or in part, and in all subcontracts awarded under this contract.

ATTACHMENT B

SPECIAL TERMS AND CONDITIONS

VDOT

Virginia Department of Transportation

ATTACHMENT B – SPECIAL TERMS AND CONDITIONS

****[The VDOT division drafting this Agreement should insert any project or division-specific Special Terms and Conditions here and delete this instructional sentence. All division sections shall be formatted the same.]**

ATTACHMENT C

PAYMENT

Virginia Department of Transportation

ATTACHMENT C - PAYMENT

******[The <**Local Government> **should select one of the three following Payment sections (Lump Sum, Cost Plus Net Fee, or Fixed Billable Rate), and delete the two non-applicable Payment sections and this instructional sentence.]**

LUMP SUM PAYMENT

A. FEE: For services provided in accordance with the provisions of this Agreement, the <Local Government> shall pay to the Consultant the Lump Sum Fee stated in the Letter of Agreement.

The fee shall include compensation for all services and costs specified in this Agreement, or as may be required for the completion of the services contained herein.

B. MONTHLY PARTIAL PAYMENTS: Monthly partial billings for services provided will be submitted, except when the net receivable amount is less than $500.00. In such case, no partial payment will be made and the value of such work shall be carried over to the next monthly billing. Monthly partial payments will be made for the services outlined herein based on a percentage of the Lump Sum Fee equal to the percentage completion reported. Billings shall be submitted no more frequently than once every 30 calendar days.

C. TERMINATION WITHOUT CAUSE: In the event this Agreement is terminated without cause, payment of the Fee shall be made on the basis of the percentage of completion at the time of the effective date of termination, as determined by the Department.

COST PLUS NET FEE PAYMENT

A. NET FEE: For services performed in accordance with the provisions of this Agreement, the <Local Government> agrees to pay the Consultant its Actual Cost, as defined below, plus the Net Fee stated in the Letter of Agreement.

The Net Fee remains fixed regardless of differences between the estimated and actual costs to the Consultant except as otherwise stipulated in this Agreement, or as may be modified by a supplemental agreement.

B. ACTUAL COST: Actual costs shall include all direct salaries, payroll burden, indirect costs or overhead, computer costs, and non-salary direct costs, as defined herein. The actual costs shall be determined by final audit.

C. DIRECT SALARIES: Direct salaries are defined as cost of salaries of professionals,

draftsmen and other personnel, including partners or principals actually performing work or a service, for the time directly chargeable to the project. Cost of time of partners or principals, to the extent that they perform technical or advisory services directly applicable to the project, shall be included in the direct salary costs at the rates stipulated in the proposal, Attachment D. The time of partners or principals as stated above shall be documented by the use of time sheets as the cost is incurred.

A list of employee classifications and hourly pay rates are shown in Attachment D. The hourly rates shall be the current rates at the time of submitting the proposal and shall not reflect any anticipated raises or escalation. Anticipated raises or escalation shall be shown as a separate item. Employees, other than those already on an hourly rate, shall have their salaries converted to an hourly rate based upon the number of compensable hours in the Consultant's normal week.

The use of overtime must be authorized in advance, in writing, by the <Local Government>. Premium overtime payments, when authorized by the <Local Government>, shall be included in direct salary costs. Payroll burden and overhead cost shall be added to the straight time salaries for overtime payment, but shall not be added to premium payments.

D. PAYROLL BURDEN: Payroll burden is defined as sick leave, vacation and holiday pay of professionals, draftsmen, and other technical personnel, plus payroll excise and unemployment taxes, contributions for Social Security, unemployment compensation insurance, retirement plan, and life and medical insurance benefits. Costs of company contributions to life insurance, medical insurance, and retirement plans for employees shall be normal and reasonable. Payroll burden is expressed as a percentage of direct salaries.

E. PAYROLL COSTS: Payroll costs are defined as direct salaries plus the payroll burden.

F. IN-HOUSE COMPUTER COSTS: Computer/CADD costs for all technical computations or databases for the project, performed on the Consultant's in-house electronic computer, shall be charged as a separate item at an hourly rate established by a Federal Acquisition Regulations audit and representative of actual costs, not to exceed $6.00 per hour, or shall be included in the Federal Acquisition Regulations audited overhead rates.

G. OVERHEAD COSTS: Overhead costs are defined as those general administrative and clerical costs at the Consultant's home office which are necessary to the proper performance of the services, but cannot be effectively and economically allocated to the project. Cost of time of partners or principals performing administrative duties shall be included in the Overhead Costs. Overhead costs are expressed as a percentage of direct salaries or other acceptable base.

H. PAYROLL BURDEN AND OVERHEAD RATE: The Consultant's most recent payroll burden and overhead rate, audited by an independent certified public accountant or cognizant government agency, established annually in accordance with the Federal Acquisition Regulations, will be applied for the purpose of computing monthly partial payments. Non-allowable costs are those identified in the Federal Acquisition Regulations.

The Consultant and its subconsultants are required to submit Federal Acquisition Regulations (FAR) audits on an annual basis within six months of the end of the Consultant's fiscal year. The <Local Government> will approve a provisional payroll overhead (payroll burden and overhead) billing rate for the fiscal year submitted. Subsequent estimate vouchers must adjust overhead to the provisional overhead billing rate approved for the fiscal year that has been reviewed, and for billing periods in the next fiscal year until an approved provisional overhead billing rate is established for that year. Increases in the provisional overhead billing rate or actual applied overhead based on audit are not a basis for an increase in the fixed fee or in the maximum compensation payable. The provisional overhead billing rate is subject to post audit prior to final payment. Overhead adjustments for work previously billed will not be allowed until time of final audit.

I. NON-SALARY DIRECT COSTS:

1. Non-salary direct costs shall include purchase and rental of all materials, supplies and equipment necessary for the performance of the services on this project and cost of outside professional consulting or contracting services, all at invoiced cost to the Consultant, plus the cost of communications and reproductions directly chargeable to the project, plus necessary travel and per diem expenses. The purchase cost of all materials, supplies and equipment, which are not for the exclusive use in providing the services included in this Agreement, are not allowed as non-salary direct costs and shall be included in the Consultant's overhead. These items include, but are not limited to, fax machines, copiers, computers, software, refrigerators, coffee makers, microwave ovens, cellular telephones, pagers, helmets, tape measures, fire extinguishers, and professional books and references.
2. The cost of motor vehicle rentals and the cost of common carriers shall be the actual cost incurred. The cost of motor vehicle leases shall be [the actual cost incurred, subject to audit] [at the rates shown in Attachment D]. Leases must be supported by bona fide documentation from the leasing company and will only be allowed from established companies in the business of leasing vehicles.
3. For use of personal or company owned vehicles, the reimbursable rate per mile stipulated in the cost proposal (Attachment D) shall be allowed to cover costs.
4. For personnel in travel status, reimbursement of actual expenses up to the maximum amount per day (as shown in Attachment D) will be allowed for meals. Reimbursement will not be allowed for meals unless an overnight stay is required. Actual expenses up to the maximum amount per day (as shown in Attachment D) will be allowed for lodging of personnel in travel status.

5. Total non-salary direct costs shall not exceed those shown in Attachment D, except by prior approval of the <Local Government>.
6. Costs of time applied and charged directly to the project for the services of special outside consultants, contractors or drafting services shall be included in non-salary direct costs at rates stipulated in the proposal or received by competitive bidding.
7. Invoiced cost to the Consultant of all technical computations for the project performed by outside commercial electronic computation services shall be included in non-salary direct costs.

J. ESTIMATED COSTS: A detailed itemized breakdown of allowable costs and computation of all costs and fees have been submitted by the Consultant with the fee proposal in the general form as furnished by the Department, and they are hereby incorporated as part of this Agreement in Attachment D.

K. TOTAL COMPENSATION: Except as may be changed according to the Agreement Modification provision of this Agreement, the maximum total compensation payable under this Agreement will not exceed the amount shown in the Letter of Agreement. Contingencies shown in the cost proposal may not be utilized except by written prior approval of the <Local Government>.

L. MONTHLY PARTIAL PAYMENTS: Monthly partial billings will be submitted as established in Attachment D. When the net receivable amount is less than $500.00, no partial payment will be made and the value of such work shall be carried over to the next monthly billing. Monthly partial payments will be made for the services outlined herein based on the sum of the Consultant's statement of actual costs incurred, plus a percentage of the net fee equal to the percentage completion reported. Billings shall be submitted no more frequently than once every 30 calendar days.

Monthly partial payments for Agreements which contain Stage III bridge services will be made for the consulting work outlined below based on the sum of the Consultant's statement of actual costs incurred, plus a percentage of net fee as follows:

1. Field Services: straight line proportion each month
2. Consultation During Bidding: upon completion of bidding for each contract
3. Shop Drawings: percentage of man-hours spent vs. estimated man-hours in Attachment D
4. Consultation During Construction: percentage of man-hours spent vs. estimated man-hours in Attachment D
5. As Built Drawings: monthly percentage complete.

M. TERMINATION WITHOUT CAUSE: In the event this Agreement is terminated without cause, payment shall be made on the basis of the Actual Cost incurred up to the

effective date of termination, subject to audit, plus a percentage of the Net Fee equal to the percentage completion of the services contracted for under this Agreement at the time of effective date of termination.

******[This section should be used when services are being provided at fixed billable rates. This could either be for a single project or for multiple assignments to be made during the term of this contract. Select the proper wording and delete these instructions.]**

FIXED BILLABLE RATE PAYMENT (ACTUAL COST BASIS) - [MULTIPLE ASSIGNMENTS]

A. PAYMENTS: Payments shall be made for [this project/each assignment] upon receipt by the <Local Government> of proper billing, in accordance with the schedule shown in the proposal for [this project/each assignment]. Billing shall be based on the hours agreed upon for performing the services multiplied by the fixed billable hourly rate as stipulated in Attachment D plus non-salary direct costs. In the event the hourly rates in Attachment D are misrepresented by the Consultant, the <Local Government> reserves the right to adjust the compensation paid to the Consultant to reflect the difference.

B. IN-HOUSE COMPUTER COSTS: Computer/CADD costs for all technical computations for [this project/each assignment], performed on the Consultant's in-house electronic computer, shall be charged as a separate item at an hourly rate established by a Federal Acquisition Regulations audit and representative of actual costs, not to exceed $6.00 per hour, or shall be included in the Federal Acquisition Regulations audited overhead rates.

C. NON-SALARY DIRECT COSTS:

1. Non-salary direct costs shall include purchase and rental of all materials, supplies and equipment necessary for the performance of the services on [this project/each assignment] and cost of outside professional consulting or contracting services, all at invoiced cost to the Consultant, plus the cost of communications and reproductions directly chargeable to the project, plus necessary travel and per diem expenses. The purchase cost of all materials, supplies and equipment, which are not for the exclusive use in providing the services included in this Agreement, are not allowed as non-salary direct costs and shall be included in the Consultant's overhead. These items include, but are not limited to, fax machines, copiers, computers, software, refrigerators, coffee makers, microwave ovens, cellular telephones, pagers, helmets, tape measures, fire extinguishers, and professional books and references.
2. The cost of motor vehicle rentals and the cost of common carriers shall be the actual cost incurred. The cost of motor vehicle leases shall be [the actual cost incurred, subject to audit] [at the rates shown in Attachment D]. Leases must be

supported by bona fide documentation from the leasing company and will only be allowed from established companies in the business of leasing vehicles.

3. For use of personal or company owned vehicles, the reimbursable rate per mile stipulated in the cost proposal (Attachment D) shall be allowed to cover costs.
4. For personnel in travel status, reimbursement of actual expenses up to the maximum amount per day (as shown in Attachment D) will be allowed for meals. Reimbursement will not be allowed for meals unless an overnight stay is required. Actual expenses up to the maximum amount per day (as shown in Attachment D) will be allowed for lodging of personnel in travel status.
5. Total non-salary direct costs shall not exceed those shown in [Attachment D/each assignment's proposal], except by prior approval of the <Local Government>.
6. Costs of time applied and charged directly to [the project/each assignment] for the services of special outside consultants, contractors or drafting services shall be included in non-salary direct costs at rates stipulated in the proposal or received by competitive bidding.
7. Invoiced cost to the Consultant of all technical computations for [the project/each assignment] performed by outside commercial electronic computation services shall be included in non-salary direct costs.

D. ESTIMATED COSTS: A detailed itemized breakdown of allowable costs and computation of all costs and fees has been submitted by the Consultant with the fee proposal in the general form as furnished by the <Local Government>, and is hereby incorporated as part of this Agreement in [Attachment D/as an attachment to the Agreement for each assignment].

E. CONTRACT TERM: Under this Agreement, assignments may be issued during the 12-month period following the date of execution of this Agreement or when the cumulative total of fees for project assignments reaches the maximum total compensation, whichever occurs first. This period shall be referred to as the "Contract Term".

F. TOTAL COMPENSATION: Except as may be changed according to the Agreement Modification provision of this Agreement, the maximum total compensation payable under this Agreement will not exceed the amount stated in the Letter of Agreement. If during the Contract Term, the cumulative total of all issued project assignments reaches the maximum total compensation limit, no further assignments may be issued during the Contract Term.

G. MONTHLY PARTIAL PAYMENTS: Monthly partial billings will be submitted as established in Attachment D. When the net receivable amount is less than $500.00, no partial payment will be made and the value of such work shall be carried over to the next monthly billing. Monthly partial payments will be made for the services outlined [herein/in each assignment's proposal] based on the sum of the Consultant's statement

of actual costs incurred. Billings shall be submitted no more frequently than once every 30 calendar days.

H. TERMINATION WITHOUT CAUSE: In the event this Agreement is terminated without cause, payment shall be made on the basis of the Actual Cost incurred up to the effective date of termination, subject to audit.

I. AGREEMENT RENEWAL: The <Local Government>, at its sole discretion, may renew this Agreement for a maximum of two additional one-year Contract Terms, provided the option to renew was indicated in the Request for Proposal. If the <Local Government> exercises its option to renew, the next Contract Term shall begin 12-months from the date of execution of this Agreement or any subsequent renewals of the Contract Term or when the cumulative total of fees for project assignments issued in any Contract Term reaches the maximum total compensation, whichever occurs first. The sum of all projects in one Contract Term shall not exceed the amount specified in the original contract. Any unused or uncommitted amounts from a previous term are forfeited and shall not carry forward to the next Contract Term. Upon the <Local Government>'s decision to renew the Agreement, a renewal letter shall be sent to the Consultant authorizing the Consultant to extend the Agreement by one additional Contract Term

J. EXPIRATION OF AGREEMENT: This Agreement will expire, on the earlier of one year from the date of this Agreement or when the cumulative total of fees for project assignments issued reaches the maximum total compensation unless the option to renew the Agreement is exercised in writing by the <Local Government> as described in Item I above. If the <Local Government> elects not to renew this agreement for an additional Contract term, as permitted by the Agreement, no new letter of agreements may be made under this Agreement after this date. Assignments for which letter of agreements have been executed prior to this date will be completed and monthly partial payments processed.

[INCLUDE THE FOLLOWING WHEN THE MAXIMUM TOTAL COMPENSATION IS LESS THAN $2,000,000: Supplemental Agreements may be executed after the final Contract Term period for changes in the scope of work of ongoing assignments. Supplemental agreements for the final Contract Term may not extend the maximum total compensation beyond $2,000,000.]

******[This section should be used when multiple assignments are being made under separate lump sum letters of agreement based on the fixed billable rates given in Attachment D. Delete this text.]**

<u>FIXED BILLABLE RATE PAYMENT (LUMP SUM BASIS) - MULTIPLE ASSIGNMENTS</u>

A. FEE: For services provided in accordance with the provisions of this Agreement, the <Local Government> shall pay to the Consultant the Lump Sum Fees stated in the letter of agreements for each assignment. The Lump Sum Fee for each assignment shall be based on the hours agreed upon for performing the services multiplied by the fixed billable hourly rates as stipulated in Attachment D plus non-salary direct costs.

The fee shall include compensation for all services and costs specified for each assignment, or as may be required for the completion of the services contained therein.

B. CONTRACT TERM: Under this Agreement, assignments may be issued during the one-year period following the date of execution of this Agreement, or when the cumulative total of fees for project assignments reaches the maximum total compensation, whichever occurs first. This period shall be referred to as the "Contract Term".

C. TOTAL COMPENSATION: Except as may be changed according to the Agreement Modification provision of this Agreement, the maximum total compensation payable under this Agreement will not exceed the amount stated in the Letter of Agreement. If during the Contract Term, the cumulative total of all issued project assignments reaches the maximum total compensation limit, no further assignments may be issued during the Contract Term.

D. MONTHLY PARTIAL PAYMENTS: Monthly partial billings for services provided will be submitted, except when the net receivable amount is less than $500.00. In such case, no partial payment will be made and the value of such work shall be carried over to the next monthly billing. Monthly partial payments will be made for the services outlined herein based on a percentage of the Lump Sum Fee equal to the percentage completion reported. Billings shall be submitted no more frequently than once every 30 calendar days.

E. TERMINATION WITHOUT CAUSE: In the event this Agreement is terminated without cause, payment of the Fee shall be made on the basis of the percentage of completion at the time of the effective date of termination, as determined by the <Local Government>.

F. AGREEMENT RENEWAL: The <Local Government>, at its sole discretion, may renew this Agreement for a maximum of two additional one-year Contract Terms, provided the option to renew was indicated in the Request for Proposal. If the <Local Government> exercises its option to renew, the next Contract Term shall begin 12-months from the date of execution of this Agreement or any subsequent renewals of the Contract Term or when the cumulative total of fees for project assignments issued in any Contract Term reaches the maximum total compensation, whichever occurs first. The sum of all projects in one Contract Term shall not exceed the amount specified in the original contract. Any unused or uncommitted amounts from a previous term are

forfeited and shall not carry forward to the next Contract Term. Upon the <Local Government>'s decision to renew the Agreement, a renewal letter shall be sent to the Consultant authorizing the Consultant to extend the Agreement by one additional Contract Term.

G. EXPIRATION OF AGREEMENT: This Agreement will expire on the earlier of one-year from the date of this Agreement or when the cumulative total of fees for project assignments issued reaches the maximum total compensation unless the option to renew the Agreement is exercised in writing by the Department as described in Item F above. If the <Local Government> elects not to renew this agreement for an additional Contract term, as permitted by the Agreement, no new letter of agreements may be made under this Agreement after this date. Assignments for which letter of agreements have been executed prior to this date will be completed and monthly partial payments processed.

[INCLUDE THE FOLLOWING WHEN THE MAXIMUM TOTAL COMPENSATION IS LESS THAN $2,000,000: Supplemental Agreements may be executed after the final Contract Term period for changes in the scope of work of ongoing assignments. Supplemental agreements may not extend the maximum total compensation for the final Contract Term beyond $2,000,000.]

APPENDIX C

VIRGINIA DEPARTMENT OF TRANSPORTATION (VDOT) EXTERNAL & CONSTRUCTION AUDIT DIVISION (ECAD) PRE-AWARD EVALUATION CHECKLIST

The prime consultant should submit a package that includes cost proposals for them and all of their Sub-consultants that provide a breakdown of all costs and documentation supporting the proposed cost as described below.

Direct Labor Costs

- A listing of the proposed average hourly rates per classifications including the employee names and hourly pay rates used to determine the average hourly rates per classification supported by ***actual payroll registers*** for each employee proposed.
- A calculation showing how the escalation was derived with the breakdown of escalation amount per year of contract performance. Escalation is limited to 1.5% in the first year of the contract and 3% for all subsequent years. (**Temporarily suspended until further notice)**
- Principals, partners, executives, etc. are considered administrative, whose costs should be included in the overheads. If a principal, etc. chooses to perform technical services, they can bill at the comparable rate to the technical activity or function being performed.

Indirect (Overhead) Cost

- Federal Acquisition Regulation (FAR) audit approval letter from ECAD, or an audit performed in accordance with the FAR by an independent CPA firm or cognizant government agency no older than 18 months.
- In the absence of the FAR audit we will allow up to 75% for the overhead rate to be used in the cost proposal and based on supporting documentation submitted by the consultant.
- The FAR audit requirement is waived for sub-consultants' whose cost proposal amount is less than $200 thousand. We need documentation in support of the proposed overhead rate.

Net fee

- The net fee should be negotiated and within VDOT guidelines found in Chapter 4 of the Professional Procurement Manual, with written documentation to justify any net fee rate over 10%.

Non-Salary (Other) Direct Cost

- Costs for employees on travel status are limited to the VDOT travel policy for lodging, per diem, and mileage rates.
- All in-house developed rates proposed should be supported by proper source documentation.
- All other direct cost proposed should be reasonable, based upon actual costs, and in accordance with the VDOT Policy.

Contingency

- The contingency should be negotiated and within VDOT guidelines, with written documentation to justify any contingency rate over 5%.

Pre-Award Evaluation Requirements

The LPA's prime consultant should submit their cost proposal, to include all subconsultants, a breakdown of all costs and supporting documentation supporting the proposed cost as described below:

Direct Labor Costs

- Proposal should contain supporting data such as:
    - **Description of the scope of the work**
    - **Proposed schedule**
    - **Man-hours**
        - required for each task, stage or element, by each category of personnel
    - **Average hourly rates**
        - for each category of personnel with payroll register or similar supporting documentation
    - **Estimated direct costs**
        - The allowable lodging and meal and incidental expense rates to be used should not exceed allowed in the VDOT Travel Policy.
        - Consultant travel reimbursement is limited to the rates stipulated in the VDOT Travel Policy.
        - The acquisition of any individual item or service costing more than $5,000, but no more than $50,000, shall be supported by at least four (4) written quotes from DMBE-certified small businesses , if available.
        - Consultants (geotechnical, aerial photography, testing labs, Etc.) which normally work on a unit price basis probably cannot provide support for their unit prices; however, they should provide a copy of their standard fee schedule and shall attest that the fees contained thereon are their normal fees for such services.
        - If a consultant proposes to purchase or lease computer hardware and/or software for use on a project, the proposal must be reviewed by the Information Technology Application Division (ITAD).
    - **Sub-Consultant Costs**
        - Prime consultant administrative mark-ups on costs for the managing of sub-consultants, in addition to the overhead, labor, and fixed fee are not allowed.
    - **Payroll Burden & Overhead Rates**
        - Audited in accordance with the FAR. Rates should be for a period not older than eighteen (18) months.
        - The consultant and all sub-consultants must comply with the FAR audit rate requirement within ten (10) work days of being notified of selection.
        - The overhead audit shall be performed by an independent CPA firm or cognizant government agency.

- The audit shall be subject to review and approval by the ECAD.
- FAR audits are not required for sub-consultants whose fees are estimated to be less than $200,000.
- If the proposed services require the establishment of a field office or if the consultant employees will work out of a VDOT provided office (such as Construction Engineering Inspection Services), a separate audited field overhead rate must be submitted. If no audited field overhead rate is available, an overhead rate of 75% will be allowed.

Required Fixed Fee Clause

- **Additional Required Contract Clause**

  The contracting officer shall insert the following clause in fixed-price architect-engineer contracts **except** when—
  (1) The head of the contracting activity or a designee determines in writing that cost limitations are secondary to performance considerations and additional project funding can be expected, if necessary;
  (2) The design is for a standard structure and is not intended for a specific location; or
  (3) There is little or no design effort involved.

  (a) The Contractor shall accomplish the design services required under this contract so as to permit the award of a contract, using standard Federal Acquisition Regulation procedures for the construction of the facilities designed at a price that does not exceed the estimated construction contract price as set forth in paragraph (c) of this clause. When bids or proposals for the construction contract are received that exceed the estimated price, the contractor shall perform such redesign and other services as are necessary to permit contract award within the funding limitation. These additional services shall be performed at no increase in the price of this contract. However, the Contractor shall not be required to perform such additional services at no cost to the Government if the unfavorable bids or proposals are the result of conditions beyond its reasonable control.

  (b) The Contractor will promptly advise the Contracting Officer if it finds that the project being designed will exceed or is likely to exceed the funding limitations and it is unable to design a usable facility within these limitations. Upon receipt of such information, the Contracting Officer will review the Contractor's revised estimate of construction cost. The Government may, if it determines that the estimated construction contract price set forth in this contract is so low that award of a construction contract not in excess of such estimate is improbable, authorize a change in scope or materials as required to reduce the estimated construction cost to an amount within the estimated construction contract price set forth in paragraph (c) of this clause, or the Government may adjust such estimated construction contract price. When bids or proposals are not solicited or are unreasonably delayed, the Government shall prepare an estimate of constructing the design submitted and such estimate shall be used in lieu of bids or proposals to determine compliance with the funding limitation.

  (c) The estimated construction contract price for the project described in this contract is $_____.

Appendix D

Certification Regarding Debarment or Suspension by any Federal Department or Agency

CERTIFICATION REGARDING DEBARMENT
PRIMARY COVERED TRANSACTIONS
(To be completed by a Prime Consultant)

Project: _____

1) The prospective primary participant certifies to the best of its knowledge and belief, that it and its principals:

   a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency.

   b) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction; and have not been convicted of any violations of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification, or destruction of records, making false statements, or receiving stolen property;

   c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph 1) b) of this certification; and

   d) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

2) Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

_____

Signature Date Title

_____

Name of Firm

CERTIFICATION REGARDING DEBARMENT
LOWER TIER COVERED TRANSACTIONS
(To be completed by a Sub-consultant)

Project: _____

1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

The undersigned makes the foregoing statements to be filed with the proposal submitted on behalf of the offeror for contracts to be let by the Commonwealth Transportation Board.

_____
Signature Date Title

_____
Name of Firm

Locally Administered Projects (LAP) Manual

PART 2

Project Management

Chapter 12

Project Development

Chapter 12
PROJECT DEVELOPMENT

12.1 Project Scoping
12.2 Plan Design
12.3 Project Budget, Schedule and Estimates
12.4 Public Involvement
12.5 Plan submittals
12.6 Advertisement and Award

APPENDIX 12-A – Project Development Checklist

NOTE:

VDOT employs a tiered approach to project oversight. VDOT District Offices have delegated review and approval responsibilities for specific, lower-risk projects, identified as Tier 1 projects. Higher risk projects, identified as Tier 2 projects, require VDOT Central Office review and approval. Instructional and Informational Memorandum IIM-LD-249.1 provides the implementation process for this tiered project oversight process.

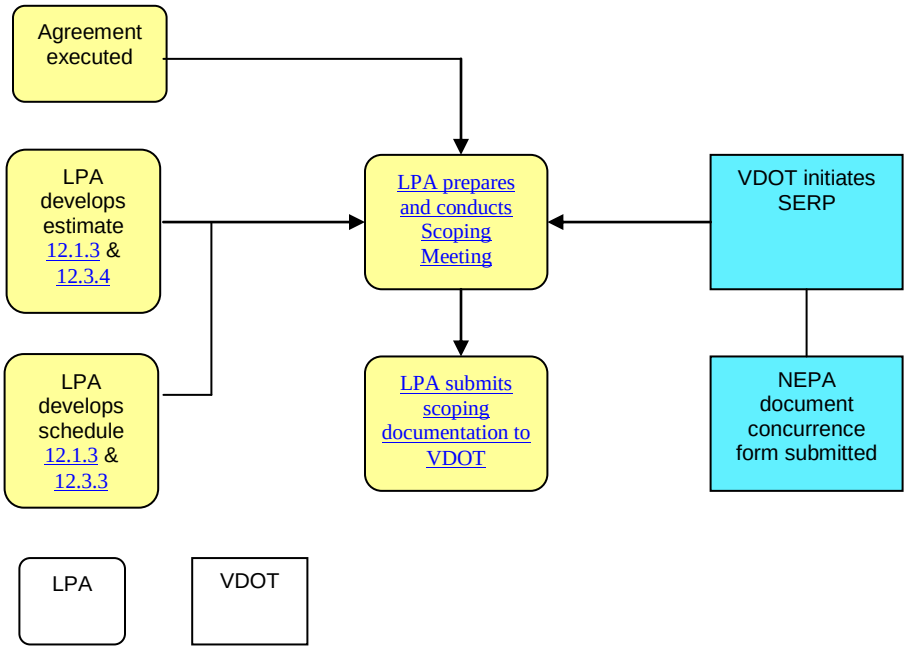
With few exceptions, the tiered project oversight process is generally transparent to local governments administering federal or state-aid projects. Project oversight for locally administered projects will follow the same approval processes as VDOT-administered projects. Where clarification is necessary, the "VDOT Responsibilities" sections of this chapter will be identified as applying to Tier 1, Tier 2, or both processes.

Project Oversight Definitions:

Tier 1 projects typically are smaller projects with few risks that are non-federal oversight (NFO) projects and have construction values of less than $5 million. Tier 1 Locally Administered projects will follow federal-aid project review processes established by VDOT's districts in accordance with the guidance provided by IIM249.1.

Tier 2 projects include large projects, design build projects and all federal oversight (FO) and non-federal oversight (NFO) projects having construction values greater than $5 million. Tier 2 Locally Administered projects will continue to have VDOT Central Office Division oversight and will follow the review processes outlined in this chapter.

12.1 - PROJECT SCOPING



12.1 PROJECT SCOPING

This chapter includes the following topics

12.1.1 Introduction
12.1.2 Applicability
12.1.3 Scoping Process Requirements
12.1.4 Tasks / Submittals / File Documentation
12.1.5 References

12.1.1 Introduction

This section outlines the processes and responsibilities associated with Project Scoping for federal-aid projects and can be used by the LPA to scope their state-aid projects. During project scoping, the project team, under the leadership of the Locality Project Manager, defines the physical limits and features of the project, establishes the project budget and determines the project oversight level in accordance with Ch 9.4.2 and VDOT Central Office oversight in accordance with IIM-226.5.

12.1.2 Applicability

- Project scoping and the processes outlined in the section are required for all federal-aid projects and projects developed to qualify as federal-aid.

Project Scoping		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*	*

* Formal project scoping and coordination with VDOT is strongly encouraged for all projects.
* All State-aid projects must consider bicycle and pedestrian accommodations.

12.1.3 Scoping Process Requirements

Project scoping is the first major project development phase milestone. During this time the project purpose is refined and all available data related to the project such as old plans, aerial photos, and any miscellaneous documents are gathered. The project team is also finalized. Each discipline represented on the project team investigates the proposed project from the perspective of their discipline. When applicable, the State Environmental Review Process (SERP) is completed at this time and those results are used as a basis for additional environmental work that may be necessary.

In accordance with Commonwealth Transportation Board's (CTB) Policy approved on March 18, 2004, all projects shall consider the accommodation of bicycles and pedestrians at the project scoping stage. Resources regarding Bicycle and Pedestrian Facilities can be accessed at http://www.virginiadot.org/programs/bk-default.asp (Biking and Walking in Virginia). Determination of bicycle and pedestrian accommodations must be documented in the project file.

If a formal scoping meeting is held, all team members will present their findings during the meeting. Alternatively, the team members will each provide their findings to the PM, who will consolidate them and review them with the LPA.

For less complex projects, a scoping meeting may not be necessary. Instead, a meeting or phone conversation with the VDOT Project Coordinator may suffice.

Scoping must be completed within six months of execution of the project administration agreement unless concurrence is otherwise obtained from the District. Failure to complete scoping within this time frame may result in the reevaluation of the locality's ability to administer the project in accordance with the Project Administration Agreement.

By the end of project scoping, **the LPA is required to prepare and submit to the Project Coordinator a scoping report** which includes the following:

- Define project limits
- Identify project issues that may affect project development, such as environmental issues, right of way, design, utilities, etc.
- Finalize the purpose and need of the project.
- Refine preliminary project estimates to develop the initial construction cost estimate.
- Identify project risks (cost, quality, safety, etc.) and develop risk mitigation strategies.
- Finalize a project schedule (each team milestone should be clarified with all

team members and reviewed to ensure commitment). For additional information on project scheduling see Section 12.3.3

- Determine the level of citizen involvement and level of NEPA documentation required.
- Determination of Bicycle – Pedestrian Accommodations in accordance with CTB Policy.
- For federal-aid bridge projects, preliminary touch-down points and the most recent bridge inspection report (for bridges maintained by the LPA).

The PM–100 and accompanying functional area scoping worksheets may be used by the LPA to document project scoping; **however, the VDOT signatures are not required**.

VDOT Responsibilities:

- *Determine if the project will be developed as a Tier 1 or Tier 2 project.*
- *The Project Coordinator will review the submitted scoping report and ensure that it addresses all scoping needs as identified above.*
- *If the project has not been created in the project pool, the Project Coordinator will create a project at this time and will include appropriate VDOT staff as team members in the iPM Communications and Divisions tab.*
- *All project decision or milestone-related documents, including the scoping report, must be uploaded into the iPM documents tab.*
- *The Project Coordinator will upload the initial scoping estimate into PCES.*
- *The Project Coordinator will enter milestone dates using the Project Schedule based on the information provided by the LPA. Milestone dates required are found in Section 12.3.3.*
- *Oversight expectations for Project Development and preliminary oversight expectations for Project Delivery will be identified and provided to the LPA.*

12.1.4 Key Submittals / Requirements

Task/Submittal/File Documentation	***Locality Responsibility (PM)***	***VDOT PC Responsibility***	***Submittal Timing/ Recordkeeping Requirements***
Review project and solicit information relative to project to establish project team	Determine what information is needed in coordination w/PC	Assist the PM Document the Project Team in iPM.	**N/A**
Plans, maps, aerials, and other supporting data to identify project area	Distribute materials to the project team	**N/A**	Not less than 15 days in advance of the scoping meeting
Scoping Coordination or Meeting	Plan, lead, and facilitate scoping coordination or a meeting, if held	The PC may attend if project complexity warrants	**N/A**
Determine scope and develop complete schedule, and project budget	Prepare and submit Scoping documentation to the PC and project team	Ensure documentation is uploaded to iPM Documents	LPA should retain through project closeout. For state aid projects, documentation must be kept in LPA project files.
Review and outline all tasks and deliverables necessary for project development	Prepare and submit schedule, with milestone dates to the PC	Document tasks and durations in the iPM Schedule. Monitor and update schedule based on locality input.	**N/A**
Scoping estimate	Provide accurate project scoping estimate in PCES	Ensure project estimate is entered and updated in PCES	**N/A**

12.1.5 References

VDOT has an established scoping process that is used for VDOT administered projects. This process includes helpful information such as checklists and forms that may be beneficial for the project scoping process. The process is outlined in two procedures, Initiate Project Scope and Final Project Scope. The LPA is encouraged to use these reference documents as they move through the project scoping process.

12.2 PLAN DESIGN

This chapter includes the following topics

12.2.1 Introduction
12.2.2 Applicability
12.2.3 Design Standards
12.2.4 Design Exceptions and Waivers
12.2.5 Design Elements
- 12.2.5.1 Surveys
- 12.2.5.2 Geotechnical Investigations
- 12.2.5.3 Traffic Control Devices / Intelligent Transportation Systems (ITS) / Roadway Lighting
- 12.2.5.4 Americans with Disabilities Act (ADA)
- 12.2.5.5 Hydraulics
- 12.2.5.6 Landscaping
- 12.2.5.7 Transportation Management Plans (TMP)
- 12.2.5.8 Noise Barriers
- 12.2.5.9 Value Engineering
- 12.2.5.10 Constructability Reviews
- 12.2.5.11 Utilities

12.2.1 Introduction

Plan Design is considered part of Preliminary Engineering (PE), which includes all work from preparation of feasibility studies, conceptual, preliminary, and final designs up through and including the preparation of bidding documents. This chapter outlines design standards, provides links to relevant VDOT guidelines, and addresses considerations for key design elements.

All final plans and specifications shall be *sealed and signed* by a Professional Engineer, Landscape Architect or Land Surveyor licensed to practice in the Commonwealth of Virginia and in accordance with State Department of Professional Occupation Regulation (DPOR) requirements.

12.2.2 Applicability

- Processes in this manual apply to federal-aid projects, projects on the NHS and Primary Routes, and projects to be maintained by VDOT, regardless of funding.
- State-aid projects, off the NHS and maintained by the LPA will be designed in accordance with this manual; however, VDOT oversight of these designs is limited to technical assistance as requested by the LPA.

Plan Design		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*X*	*X**

* Projects are to be designed in accordance with this manual; however, VDOT oversight to these designs is limited to technical assistance as requested by the LPA

12.2.3 Design Standards

VDOT has adopted the AASHTO *A Policy on Geometric Design of Highways and Streets*, commonly referred to as the AASHTO "Green Book," as minimum design standards. VDOT's Road Design Manual meets, or exceeds, all AASHTO Green Book design standards.

All LPA administered projects to be maintained by VDOT, regardless of funding source, must be designed in accordance with *VDOT's Road Design Manual* or seek a design waiver.

All LPA administered projects to be maintained by the LPA must be designed in accordance with AASHTO's Policy on Geometric Design of Highway and Streets (the "Green Book") or seek a design exception.

LPAs may develop their own design standards and construction specifications, which meet or exceed VDOT and AASHTO. However, they must be reviewed and approved by VDOT for projects off the national Highway System, and also by FHWA for projects on the National Highway System. Local governments are expected to notify the VDOT Project Coordinator whenever alternative designs and specifications are being utilized and provide a list of the proposed modified designs and specifications and how those modifications differ from VDOT's.

VDOT publishes a series of Instructional & Information Memoranda as well as other Manuals and Guides, which provide additional guidance and clarification regarding design standards. Local governments are encouraged to use these as additional resources when considering the design features of their projects to ensure consistent state-wide design.

For projects to be maintained by VDOT, once the project design has been completed and approved to advertise, the LPA Project Manager shall provide the VDOT Project Coordinator the complete electronic plan assembly in PDF format to be filed in the VDOT Plan File Library.

12.2.4 Design Exceptions and Waivers

Design Waivers

Designs for projects maintained by VDOT that do not meet VDOT's "minimum" design standards, but exceed AASHTO's design standards require a written Design Waiver. The LPA or its consultant shall prepare and submit the Design Waiver Form (LD-448) and any accompanying documentation to the VDOT Project Coordinator as soon as it becomes apparent that a waiver is required. The design waiver review process should take approximately two (2) weeks from the time of receipt of a complete submittal. The VDOT Project Coordinator will forward the design waiver to the District Location and Design Engineer for review and action (approval or denial). Once the review has been completed and action taken, the Design Waiver request will be sent back to the VDOT Project Coordinator for coordination with the Locality Project Manager. **Design waivers are not required on projects that will be maintained by the locality.**

The Design Waiver Form LD-448 can be accessed at
http://vdotforms.vdot.virginia.gov/SearchResults.aspx?filename=LD_448.doc

For more information on the Design Waiver process for road projects, refer to LD-IIM-227, which can be accessed at
http://www.extranet.vdot.state.va.us/locdes/electronic%20pubs/iim/IIM227.pdf

VDOT Responsibilities:

- *Design Waivers are processed at the District Location and Design Office.*
- *The VDOT Project Coordinator will forward the Design Waiver request to the District Location and Design Engineer for review and action (approval or denial).*
- *The VDOT Project Coordinator will notify the LPA of the decision.*
- *All documents relating to the Waiver and the approval notification must be uploaded into iPM.*

Design Exceptions

Designs that do not meet the minimum design standards contained in the AASHTO "Green Book" require a written Design Exception. The locality or its consultant shall prepare and submit the Design Exception Form (LD-440) and any accompanying documentation to the VDOT Project Coordinator as soon as it becomes apparent that an exception is required. The design exception review process should take approximately two weeks from the time of receipt of a complete submittal.

VDOT Responsibilities:

- *VDOT Project Coordinator will forward the Design Exception request through the District L&D Section, to the State Location and Design Engineer for review and action (approval or denial). Once the review has been completed and action taken the Design Exception request will be sent back to the VDOT Project Coordinator for coordination with the Locality Project Manager.*
- *All documents relating to the Exception and the approval notification must be uploaded into iPM by the PC.*

The Design Exception Form LD-440 can be accessed at
http://vdotforms.vdot.virginia.gov/SearchResults.aspx?filename=LD_440.doc
For more information on the design exception process for road and bridge projects, refer to LD-IIM-227, which can be accessed at
http://www.extranet.vdot.state.va.us/locdes/electronic%20pubs/iim/IIM227.pdf

12.2.5 Design Elements

The following is a list of design elements that are typically required in a set of roadway and bridge plans:

12.2.5.1 Surveys

The first step in physical project development is identifying the project site. In some cases the land may be owned by the State or local government. In other cases, it may be necessary to purchase land for the project. In the case where the land is already owned by state or local government, it will be necessary to conduct project design surveys to specify where the new construction will take place.

Survey Procedures

Section 33.1-94 of the Code of Virginia requires that advance notice be provided to property owners prior to entering their property to ascertain its suitability for highway purposes. VDOT's Survey Manual, which can be accessed at http://www.virginiadot.org/business/locdes/manual-survey-index.asp, is a resource for local governments and outlines VDOT's business practices regarding survey. A copy of VDOT's form letters is available from the Right of Way and Utilities Management System (RUMS) forms repository.

Project design surveys – The purpose of a project design survey is to identify the project site sufficiently to allow the development of detailed engineering plans, specifications, and cost and material quantity estimates. Project design surveying must be performed under the supervision of a Land Surveyor licensed to practice in the Commonwealth of Virginia by the Virginia Department of Occupational Regulation (DPOR). Project design surveys often involve aerial mapping and Global Positioning Survey (GPS) techniques, as well as placement of physical markers. In addition to the project design survey, boundary surveys will be needed for the purposes of legal title transfer.

If the project is on state property, right of entry will be allowed under the project administration agreement. Before a LPA can begin work (including surveying) on a roadway that is part of the interstate, primary, or secondary system of highways, it must secure a land use permit from VDOT. This permit is issued through the VDOT Residency and usually will be issued at no cost.

Survey for land acquisition and title transfer - If the LPA is purchasing land for the transfer to state ownership (underlying fee ownership) or for a federal aid project, it must follow VDOT's survey manual. If the LPA is purchasing land for the locally maintained system without federal funds, the LPA can follow its own survey and title requirements.

12.2.5.2 Geotechnical Investigations

VDOT's Material Division Manual is VDOT's standard and is recommended for local governments performing geotechnical investigations. The Materials manuals can be accessed at http://www.virginiadot.org/business/materials-default.asp

12.2.5.3 Traffic Control Devices/Intelligent Transportation Systems (ITS) / Roadway Lighting

VDOT's Traffic Engineering Design Manual, which can be accessed at http://www.virginiadot.org/business/locdes/traffic-engineering-manual.asp, is VDOT's standard and recommended for design elements related to traffic control devices, ITS and Roadway lighting.

12.2.5.4 Americans with Disabilities Act (ADA)

The Americans with Disabilities Act of 1990 (ADA) is legislation intended to provide adequate accessibility to all persons. Title II of ADA applies to State and Local Governments and its requirements affect design, construction and maintenance of **all** transportation projects, regardless of the funding source.

The ADA requires that **all** new construction, reconstruction and alterations to existing pedestrian facilities be constructed in accordance with federal accessibility standards. Pedestrian facilities include sidewalks, shared use paths, or other public walkways. Where such facilities intersect a street, the portion of the street used by pedestrians, whether marked as a crosswalk or not, is also considered part of the pedestrian facility.

Project activities are considered an “alteration” if they involve changes to the structure, grade, function or use of the street or sidewalk. Examples include full depth pavement replacements, widening, resurfacing, signal installation, pedestrian signal installation and other work of similar scale and effect.

When the scope of a transportation project includes alterations to existing pedestrian facilities, those facilities must be brought up to current accessibility standards. For example, if a street resurfacing project alters the sidewalk, curbs or street surface in the crosswalk area, curb ramps must be installed as part of the project. If curb ramps already exist, but do not meet the current accessibility standards, those ramps must be either reconstructed or retrofitted to meet the current accessibility standards.

For more information on ADA requirements related to transportation facilities, refer to LD-IIM-55.

12.2.5.5 Hydraulics

VDOT's Drainage Manual, which can be accessed at http://www.virginiadot.org/business/locdes/hydra-drainage-manual.asp, is available as a resource for local governments. In addition, VDOT maintains a compilation of Hydraulic Design Advisories, which supplements the Manual.

12.2.5.6 Landscaping

It is recommended that all Landscape Plans, which will be maintained by the Department, be designed in accordance with VDOT's Guidelines contained in Appendix B1 of the Road Design Manual. A copy of the guidelines can be obtained through the VDOT Project Coordinator.

12.2.5.7 Transportation Management Plans (TMP)

23 CFR 630 Subpart J, also referred to as the Work Zone Safety and Mobility Final Rule, applies to all State and local projects that receive Federal-aid highway funding and provides a decision-making framework known as Transportation Management Plans that considers broader safety and mobility impacts of work zones across project development stages, and the adoption of additional strategies that help manage these impacts during project implementation. The TMP is not a separate document, but is used in the development of traffic control in construction plans. A TMP is a set of strategies which working together, should improve the safety and functionality of temporary traffic control during construction. These strategies are divided into three broad groups which are captioned as: 1) Temporary Traffic Control, 2) Public Information; and 3) Transportation Operations. The degree of a project's TMP requirements is based on the project's level of complexity. VDOT's guidelines categorize a project into one of three types of transportation management. The Guidelines are available at: http://www.extranet.vdot.state.va.us/locdes/electronic%20pubs/iim/IIM241.pdf

12.2.5.8 Noise Barriers

When warranted based on noise analysis, noise wall profiles should be included in the plans. Most noise barriers are designed by the contractor with local review and approval on the locally maintained system. VDOT concurrence is required on roads that will be maintained by the Department.

12.2.5.9 Value Engineering

Federal regulations outline requirements for value engineering (VE) studies and the Code of Virginia requires a VE study on all projects exceeding $5 million in construction cost. The locality will complete the VE process and, all recommendations must be submitted to VDOT. The final decision as to which recommendations are incorporated into the final plans is made by the Chief Engineer.

Additional information regarding value engineering studies can be found on the VDOT Value Engineering Web site.

12.2.5.10 Constructability Reviews

The purpose of a constructability review is to determine if a project can be constructed as designed with the information provided on the drawings, specifications, and copied notes.

Constructability reviews should be conducted by the LPA for all projects to be maintained by VDOT and for federal aid projects. Constructability reviews are recommended for any other projects on the locally maintained system.

Additional information on performing constructability quality reviews can be found in VDOT's Road Design Manual, in Chapter 2G.

12.2.5.11 Utilities

Private utility companies may be reimbursed for moving utilities in conflict with the project, at project expense, when they have been located on easement or have prior rights in the existing location. It is also recognized that some localities have franchise agreements with utility companies that require the company to move its utility because of a project, at the company's expense. In that case, the locality shall enforce the terms of its agreements in order to save project funds. Utility relocations have to be viewed as regional efforts, since all utility relocations within a region compete for a utility's time and resources. Early coordination with utility owners is highly recommended.

In order to pay for utility adjustments as a project expense, a detailed utility plan and cost estimate needs to be prepared. Eligible project expenses for utilities basically result in the in-kind replacement of any utilities that are in conflict with the project. Any county without an existing utility franchise agreement when administering a VDOT sanctioned project under a land use permit or transportation project agreement shall have the same authority as the Department pertaining to the relocation of utilities. In accordance with the above, it is recognized that in some instances the locality's utility facility owner may want to provide upgraded utilities or to put in new utilities while the highway is being disturbed for construction purposes. This is known as "betterment," and is generally not an eligible project cost. It makes sense to do this betterment work at the same time the project is being constructed, so the contractor may perform the work during construction, with the utility facility owner being responsible for the cost of the betterment portion from a different funding source.

VDOT's Right of Way and Utilities Manual, Volume II provides additional references to the processes and procedures regarding utility relocations and betterments.

12.3 PROJECT BUDGET, SCHEDULE, AND ESTIMATES

This chapter contains the following topics:

12.3.1 Introduction
12.3.2 Applicability
12.3.3 Project Schedules
12.3.4 Project Budgets and Estimates
12.3.5 Tasks / Submittals / File Documentation
12.3.6 References

12.3.1 Introduction

This chapter outlines the actions required to develop, update and monitor project development schedules, estimates and budget. The LPA's project manager is responsible for the development and management of the schedule, estimates and budget for Preliminary Engineering, Right of Way, and Construction throughout the entire project life cycle. It is critical that both schedules and estimates be updated regularly within VDOT's systems (iPM Schedule, PCES), because they are utilized for developing our annual federal strategy for obligation of funds.

Project scheduling is essential in monitoring and managing project development. At project scoping a schedule must be established reflecting key milestones in project development. As these milestones are met, or when the timeframe must be changed, the schedule must be updated and documented in the iPM Schedule by the VDOT Project Coordinator.

Estimates must be current and maintained in VDOT's Project Cost Estimating System (PCES). The purpose of PCES is to collect data for a specific project and, based on the data entered; determine a budget for that project. Project budgets should be reviewed and must be updated every 90 days or at every project milestone, whichever is less. Project budgets will be affected by significant changes in the project scope and or schedule and should be updated accordingly.

12.3.2 Applicability

- Accurate schedules and estimates should be established and updated regularly for all project categories by the locality, in coordination with their VDOT Project Coordinator.

Project Budget, Schedule, & Estimates		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*X*	*X*

12.3.3 Project Schedules

Every project requires a schedule and the LPA Project Manager is responsible for overall development and management of the project schedule with collaboration and support from project team members. Scheduling encompasses a combination of required tasks and project information to relate unique project characteristics with available resources and time requirements. A complete project schedule should be developed through the Scoping process with input from the team members. The number of tasks required in the schedule will depend on the complexity of the project.

The LPA will submit, as part of the scoping package, a final baseline project schedule to include the following key milestone dates:

- Scope Project
- Project Definition Form (EQ 429) Submittal , when applicable
- NEPA Document Completion
- Right of Way & Utilities Federal Authorization Request / Submission of complete R/W Plans and RW301/EQ201
- Right of Way Acquisition start date (when applicable)
- Advertisement Date

VDOT's strategy for the expenditure of federal funds is prepared utilizing the project schedule and key milestone dates for preliminary engineering, right of way, and construction that is developed during the scoping process for each project. It is critical that the locality develops and submits realistic dates for each of these phases. Annually VDOT submits its expenditure strategy to FHWA with the expectation that localities will meet the projected dates. Localities are accountable for meeting the submitted schedule, and failure by the LPA to meet project schedules may risk future funding for locally administered projects.

VDOT Responsibilities:

The Project Coordinator will enter, monitor and maintain the following key milestones in the iPM Schedule module at the beginning of the project:

- *Scope Project (22)*
- *SERP (18)when applicable*
- *Final Environmental Document (NEPA Complete) (33) when applicable*

- *Authorize R/W and Utilities (52)*
- *Plan Submission Date (PS&E Submittal Date) (72X)*
- *Construction Authorization (79)*
- *Advertise Project (80)*

The Project Coordinator or VDOT Construction Project Monitor, as applicable, will input the following dates for tracking purposes within 10 business days of completion of the activity:

- *Award Contract (84)*
- *Administer Contract (Construction start and complete dates)*

(91). After construction completion and submission of C-5,project status changed to 'Construction Complete' and dates entered in the Project Pool.

12.3.4 Project Budgets and Estimates

12.3.4.1 Project Budgets

The LPA is fully responsible for monitoring the project budget. When estimates (see below) project a budget shortfall, the LPA PM must identify available funding sources. If additional state or federal funding is necessary, the VDOT PC must be

notified so that the Project Administration Agreement can be modified and any impacts to the SYIP or SSYP can be addressed.

The federal obligation strategy is based on schedules and estimates provided by LPAs for LPA administered projects. LPAs are expected to meet the schedule to ensure that federal obligations are not lost. The VDOT Project Coordinator has the responsibility, after consultation with the LPA Project Manager, to delay scheduled activities, if in the Project Coordinator's judgment; the schedule is unrealistic and will have an adverse impact on the federal obligation strategy or the funding program.

VDOT Responsibilities:

- *Schedules and estimates for locally administered projects must not be changed without the locality's concurrence. However, when the schedule is unrealistic and may create funding problems, the Project Coordinator may request that the schedule be modified. Any modifications must first be discussed with the LPA Project Manager and coordinated through the District Planning and Investment Manager and Central Office Programming Division.*
- *Authorization to begin activities in each phase will not be issued until the phase is fully funded or funds to complete the phase have been identified.*
- *When projects are "limited funding," that is the project will not receive additional federal or state-aid, the LPA is responsible for securing additional funding necessary to complete the phase/project and identifying the funding in the project administration agreement.*

12.3.4.2 Project Estimates

The LPA is required to provide a revised project estimate at key project milestones and as necessary when the project estimate changes due to scope, funding, etc. modifications.. The LPA may use VDOT's estimating system (PCES) or their own; however, all estimates must be included in PCES. For LPAs which use their own

estimating systems, their estimate can be manually uploaded into PCES. When uploading estimates to PCES, the **PCES Alternate Right-of-Way Worksheet and/or Alternate Utilities Worksheet must be used**. The use of a lump-sum estimate is **not** adequate for submittal to FHWA for RW authorization.

The LPA Project Manager is responsible for preparing and uploading the project estimate in PCES. In doing so, the locality must select the current milestone stage using drop-down selection and recommended estimate in PCES at the intervals stated in the previous paragraph.

The system will automatically generate a budget adjustment revision request if the updated project estimate results in a 10% increase or decrease or a difference of $50,000.

12.3.4.3 Quantity Summaries / Engineer's Estimates (Prior to Advertisement)

Quantity summaries should be computed and developed utilizing quantity take-offs from the plans. An accurate summary of quantities is critical to prospective contractors interested in submitting a bid on the project. This information leads directly to the Engineer's Estimate, which combines the computed quantities of work and the estimated unit bid prices. The Engineer's Estimate should be updated, as necessary, up until the bids are opened.

12.3.5 Key Submittals / Requirements

Task/Submittal/File Documentation	***Locality Responsibility***	***VDOT Project Coordinator Responsibility***	***Submittal Timing/ Recordkeeping Requirements***
Establish project schedule	Develop and provide a project schedule to include all tasks needed to complete the project to the VDOT Project Coordinator.	Enter appropriate milestones dates in the iPM Schedule.	After completed scoping process
Maintain project schedule	Provide the VDOT Project Coordinator with schedule changes in a timely manner. Provide the VDOT Project Coordinator dates scheduled tasks are completed in a timely manner.	Monitor and update the project schedule in iPM, as appropriate based on input from the Locality Project Manager.	N/A
Provide timely and accurate estimates in PCES	Enter the project estimate in PCES and update	Review estimates and provide technical assistance	Every 90 days or each project milestone, whichever is less

12.3.6 References

23 CFR 630.106 (a) 4 – Project Cost Estimates

- Project Development Schedules - http://www.virginiadot.org/business/resources/Project_Development_Schedules.pdf
- Project Development Budget and Estimates - http://www.virginiadot.org/business/resources/Project_Development_Budget_and_Estimates.pdf
- PCES Users Guide http://isyp/scoping/docs/PCES.pdf

12.4 PUBLIC INVOLVEMENT

This chapter includes the following topics:

12.4.1 Introduction
12.4.2 Applicability
12.4.3 Purpose of Public Participation
12.4.4 Types of Public Involvement
12.4.5 Public Participation Requirements
12.4.6 Public Participation Procedures
12.4.7 Transcript of Public Hearing
12.4.8 Location and/or design approval for projects on which a hearing or hearings are held
12.4.9 Location and/or design approval for projects on which a posting of notice of willingness to hold a hearing
12.4.10 Tasks / Submittals / File Documentation
12.4.11 Regulatory References
12.4.12 Miscellaneous References

12.4.1 Introduction

This section discusses the processes and responsibilities associated with Public Information and Participation for federal-aid projects. The final outcome of this process should be that all projects are developed in a manner that provides the general public with a well-publicized opportunity to both review and discuss proposed plans and potential impacts for the project.

During the development of transportation projects it is essential that public participation be considered. LPA's have a responsibility to provide residents of their community and other interested parties with an opportunity to participate, by expressing their viewpoints and concerns, in the development of the project. It is incumbent upon the LPA to include public participation opportunities before the project has reached a point where it becomes impractical to make extensive modifications. LPA's across the Commonwealth have robust public participation processes in place for their land planning and zoning programs, and are encouraged to broaden the scope of those existing processes to include transportation projects.

Public participation may range from individual meetings with affected residents to informal community meetings or area wide project development workshops and citizen information meetings to formal Public Hearings on a project. LPA's undertaking transportation projects, whether the project is state funded or federally funded, must adhere to the requirements outlined in this chapter for an opportunity for a public hearing under certain circumstances.

Where a locally administered project requires the preparation of an EA or EIS, the LPA is required to either hold a public hearing or post a willingness to hold a public hearing on the project, in accordance with the requirements of this chapter.

12.4.2 Applicability

- Federal-aid Highway Projects must follow the processes defined in this chapter.
- State-aid Highway Projects must follow processes defined in §15.2-2204, §15.2-2239, § 15.2-1800, and any other sections of the Code of Virginia applicable to a LPA's capital improvement program. The LPA will certify adherence to those processes as noted in chapter 5 (state funded projects) of this manual.

Public Involvement		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*N/A*	*N/A*

12.4.3 Purpose of Public Participation

Public Hearings and Public Information Sessions provide the general public with a well-publicized opportunity to both review and discuss proposed plans for a highway project. Project information should be provided in sufficient detail to allow property owners along a project corridor or others with an interest in a project to identify specific features or property that may be impacted by the proposal, discuss those with a member of the project team and if necessary, provide a mechanism for the expressing and documenting concerns or views related to the project.

12.4.4 Types of Public Involvement

- **Willingness to hold a public hearing -** If a project is noncontroversial, does not have the potential to substantially impact adjoining property, and is unlikely to generate requests for a hearing, a willingness to hold a public hearing may be used rather than scheduling a public hearing.
- **Individual (one-on-one)** – When an interested party has requested that a public hearing be held, often a separate meeting with that interested party can be held to address concerns. If the interested party's concerns are adequately addressed, a separate public hearing is not required.

- **Formal Public Hearing** – The formal public hearing process is conducted as a structured meeting between the project team and public audience at a designated time. The project team presents the project to the audience and then the audience is provided an opportunity, one at a time, to respond with comments and questions. All activities and comments are recorded and entered into a hearing record. The record is held open for at least 10 days after the hearing for additional written comments to be submitted. Prior to the formal process individuals may discuss the proposed project with team members for a one-on-one explanation and discussion about their specific concerns and questions. Individuals have the opportunity to have their comments and questions recorded verbally, in writing, or delivered directly to the project team as a part of the formal hearing activities.
- **Open Forum Public Hearing** – The open forum public hearing is conducted in an open meeting format. Individuals may arrive at various times, be given a brief hearing orientation and directed to project team members for one-on-one explanations and discussions about their specific concerns and questions. Individuals have the opportunity to have their comments and questions recorded verbally or in writing for the hearing record. No structured meeting is conducted as part of the open forum public hearing.

12.4.5 Public Participation Requirements

According to federal regulations found in 23 CFR 771.111(h)(2)(iii) one or more public hearings or the opportunity for hearing(s) must be held for any federal-aid project which requires significant amounts of right-of-way, substantially changes the layout or functions of connecting roadways or of the facility being improved, has a substantial adverse impact on abutting property, otherwise has a significant social, economic, environmental, or other effect, or for which FHWA determines that a public hearing is in the public interest.

Federal-aid projects which are processed with a Categorical Exclusion (CE), a Programmatic Categorical Exclusion (PCE), or a Blanket Categorical Exclusion (BCE) have been found to not to have any significant social, economic or

environmental effects. When none of the other criteria exist, these projects may not require a formal public participation or public hearing process. Anytime an environmental assessment is necessary, a public hearing must be held or an opportunity for a hearing must be offered.

LPAs must ensure that other Virginia Code requirements applicable to local governments have been met. VDOT takes a more conservative approach in their project administration by providing an opportunity for a public hearing for nearly all construction projects.

The decision regarding the level of public involvement must be documented during the scoping process with the concurrence of the VDOT Project Coordinator. **The burden of proof that a public hearing or an opportunity for a public hearing (i.e. posting of a willingness) is not necessary lies with the local government administering the project and should be fully documented during the scoping process.** For example, a sidewalk construction project on existing right of way would be an example of a project which does not normally meet the criteria for a public hearing and may proceed without one provided the criteria that requires a hearing is not met.

The following are guidelines which may be used for determining when public hearings are to be held, or when a "willingness to hold a public hearing" is sufficient. They are:

- Projects on roadway corridors, which are completely on new location, require a location public hearing followed by a design public hearing.
- Projects within the existing roadway corridor with a predominant portion of the work on new location require a combined location and design public hearing.
- Projects within the existing roadway corridor that have a significant social, economic or environmental impact require a design public hearing.
- Projects within the existing highway corridor where significant social or environmental impacts, or both, are anticipated require publication of a notice of willingness to hold a design public hearing. The locality will hold a design public

hearing if a request for such a hearing is made, and the issues raised in relation to the request cannot be resolved through any other means.

When a significant period of time has passed since an initial public hearing or willingness notification, the potential impacts of the project and the concerns of affected citizens may change. Accordingly, there may be a need for additional public participation. If changes in land use, population or impact to the environment have taken place within the project area, a public hearing may be necessary.

VDOT Responsibilities:

- *Project Coordinator will review determination of public involvement requirements at scoping.*

12.4.6 Public Involvement Procedures

- **Public Notification** – Public notices are published as a means to inform the public of various proposals and invite public participation. Minimally, public notice in a newspaper is required but additional methods should be pursued if the locality believes that they will help in reaching the public and improve public involvement in the project. Methods of public notification for a public hearing or a willingness to hold a public hearing include:

    - Paid public notice must be made in a local newspaper – at least twice – the first notice must appear 30 days before the hearing date and the second notice between seven days to fifteen days before the hearing.
    - News releases
    - Letters to adjacent property owners
    - Posting of notice in local businesses and public facilities
    - Notifications of special interest groups and affected governmental agencies
    - Signs within the project corridor or limits.
    - Postings on a public or project website
    - Newsletters (project, home owners association, community, etc.)

- Newspaper notification must include:
  - Date, time, place and type of meeting
  - Description of project
  - Statement that tentative Project schedules will be discussed
  - Right of way relocation and assistance information
  - Statement of opportunity for written and oral comments
  - Statement of availability of project information 30 days prior to the hearing and the availability of the environmental assessment (EA) or draft Environmental Impact Study (DEIS) (if Federally funded) at specified locations prior to the hearing. Environmental information is to include 106 and Agricultural Forestal District statements.
  - Availability of project materials (plans, brochure, and environmental documentation
  - Non- discrimination clause (found in Chapter 17)

  When an Environmental Assessment (EA) or EIS is required, it must be available for comment a minimum of 15 days prior to the public hearing and must be available for review at the public hearing Comments must be accepted for 30 days after the EA is available.

  EISs have additional public notice requirements that are beyond the scope of discussion of this manual. When an EIS is necessary, the LPA will be required to enter into a separate memorandum of agreement (see Chapter 15.2.1), which will include public involvement requirements.

- **General** - Because of the unique nature of highway projects, particularly the use of many visual aids, plans and charts, it is recommended that public participation activities be undertaken at a facility that can accommodate public review of these items.

- To encourage input from all interested parties, public hearings and the facilities where they are held must:

- be ADA compliant
- accommodate the hearing impaired
- accommodate the visually impaired

- In addition, the following are required:
  - Public Hearings be preceded by a period where the public can review project documents
  - Provide for the recording of and / or transcription of verbal comments
  - Public hearings are to remain open for an additional 10 calendar days after adjournment in order to receive written comments. (Note: Comment for environmental assessments must be accepted for a total of 30 days.)

VDOT Responsibilities:

- *Project Coordinator will review notice of public hearing or notice of willingness to hold public hearing for federally funded projects.*
- *Project Coordinator will review Project Information Sheet and coordinate reviews, as needed, by District Preliminary Engineer and Public Affairs.*

12.4.7 Transcript of Public Hearing

Whenever a public hearing is held, a record of the hearing must be prepared to provide documentation of the proceeding. The Transcript must include:

- A title page including project information
- table of contents,
- Hearing details (date, time, location)
- Sign in sheet
- Oral comments
- Written comments
- Any other documents submitted for the record
- Copy of public notice and documentation of public notification
- Brochure

- Reproductions of any other displays from the hearing

Copies of the transcript must be forwarded to the VDOT Project Coordinator and for review and transmittal to FHWA and the Commonwealth Transportation Board as appropriate.

VDOT Responsibilities:

- *Project Coordinator will review transcript and will process for approval according to the Tiered Project Oversight approach.*

12.4.8 Location and/or design approval for projects on which a hearing or hearings are held

After study of the comments received from the public, environmental considerations, costs, design standards, and the evaluations of any studies completed as a result of the public involvement procedures, the transcript will be compiled. The transcript will be summarized and issues addressed by the LPA PM to develop a recommendation to be forwarded by the VDOT Project Coordinator to the District Administrator's Designee for distribution to the appropriate approving authority in accordance with VDOT's Tier 1 / Tier 2 approval processes.

The District Administrator's Designee will distribute the transcript, proposed responses and recommendations to the appropriate VDOT contacts and decision makers who will coordinate location/design approvals as required by state and federal law.

Once the recommendation is approved, the LPA is encouraged to advise those who provided comments during the public hearing. This response should note any changes in the proposal as presented at the public hearing and respond directly to the individual's comments or questions.

12.4.9 Location and/or design approval for projects with a posting of notice of willingness to hold a hearing:

For projects on which Notice of Willingness to hold a public hearing procedures have been sufficient to satisfy the public involvement requirements, final location/design approval is coordinated by VDOT in accordance with state and federal law.

Once the approvals are obtained, the locality is encouraged to advise those who provided comments during the public hearing. This response should note any changes in the proposal as presented at the public hearing and respond directly to the individual's comments or questions.

12.4.10 Tasks/ Submittals / File Documentation

Task/Submittal / File Documentation	***Locality Responsibility***	***VDOT PC Responsibility***	***Submittal Timing / Recordkeeping Requirements***
• Determination of public participation requirements	Prepare and submit to PC	Concur with locality decision	@ Scoping
• Notice of Public Hearing in newspaper (2x) and posting	Post and send notice to PC	N/A	Not less than 30 days prior to PH approximately one week prior to PH
• Notice of Willingness to Hold a Public Hearing in newspaper (2x) and other appropriate notifications	Post and send notice to PC	PC Reviews for completeness. Support is available from Public Affairs Office if needed.	Not less than 15 days prior to the expiration of willingness period and approximately one week prior to expiration date of willingness.
• Draft of Project Information Sheet(s) *Section 3.03 and Appendix A-1 of the Public Involvement Manual includes a listing of the suggested documents for Public Information session / Public Hearing.*	Prepare and submit to PC	PC Reviews for completeness. Support is available from Public Affairs office if needed.	30 days prior to hearing
• Draft Project Information Sheet(s)	N/A	Review and provide comments to locality. Support is available from Public Affairs office if needed.	10 business days

• Final Project Information Sheet(s)	Prepare for public hearing	N/A	5 days prior to hearing
• *Conduct the Public Hearing - Section 3.05 and Appendix A-3 of the Public Involvement Manual provides guidance on holding a Public Hearing*	N/A	N/A	N/A
• PH Transcript *Appendix A-5 (Transcript Submission) of the Public Involvement Manual outlines the preparation of the Transcript*	Prepare and submit to PC	Process in accordance with Tiered Project Oversight process	Prepared and submitted to VDOT PC 15 days after close of written comment period; final comments provided to LPA within 15 days of their submittal
• Location and/or design approval in accordance with Tier 1 / Tier 2 processes	N/A	CTB for location, Chief engineer for design	45 days for CTB approval, 30 days for design approval

12.4.11 Regulatory References

- 23 CFR 771.111 (h)
- 23 USC 128
- 40 CFR 1500 - 1508
- Executive Order 12898 - Environmental Justice
- 24 VAC 30-380 (Virginia Administrative Code)
- §33.1-18 of the Code of Virginia
- §51.5-40 of the Code of Virginia
- §33.1-70.1 of the Code of Virginia
- §33.1-70.2 of the Code of Virginia
-

12.4.12 Miscellaneous References

VDOT Policy Manual for Public Participation in Transportation Projects

VDOT's Public Involvement Manual defines how VDOT conducts the public participation process on its projects and documents specific requirements for how VDOT addresses FHWA's public involvement regulations. This manual also includes helpful information such as templates for hearing notices and project information brochures and checklists for hearing activities. Accordingly, the LPA is encouraged to use this manual as a reference.

http://www.virginiadot.org/business/resources/LocDes/Public_Involvement_Manual.pdf

VDOT CADD Manual

VDOT's CADD manual includes many references for the production of Public Hearing Displays. Localities and their consultants are encouraged to utilize these guidelines and templates as they prepare for public hearings. These can be found in Appendix G of the CADD manual.

12.5 PLAN SUBMITTALS

This chapter contains the following topics:

12.5.1 Introduction
12.5.2 Applicability
12.5.3 Sealing and Signing Requirements / Title Sheet Signatures
12.5.4 Plan Reviews
12.5.5 Right of Way Plan Approval
12.5.6 Advertisement Plan Approval Process
12.5.7 Tasks / Submittals / File Documentation
12.5.8 References
12.5.9 Regulatory References

12.5.1 Introduction

This chapter outlines the actions required for plan review, submittal, and approval. The purpose of these reviews is to ensure that the plans have been developed in accordance with the **Plan Design** section of this Guide and meet applicable federal and state design guidelines. **VDOT's reviews will focus only on the completeness, comprehensiveness, constructability, and biddability of the plans and must not be considered a quality control review.** The LPA and its responsible charge engineer are fully responsible and liable for the adequacy and accuracy of the project design.

Generally, plans should be reviewed by VDOT prior to the Public Hearing, prior to Right of Way Acquisition, and prior to Advertisement, or at, approximately, the 30%, 60%, and 90% plan development stages. The scope and complexity of the project will determine VDOT's oversight activities (see Chapter 13) and the actual number of reviews and milestone meetings will vary. Three is the typical number of plan reviews; however, there may be fewer, or more, as project complexity and project risk necessitates. The LPA Project Manager and the VDOT Project Coordinator will, together, make the final determination regarding the number of reviews and milestone meetings during project scoping.

12.5.2 Applicability

- Applicable on all projects utilizing federal funds, projects developed to qualify for federal aid, and state funded projects on the VDOT maintained system.

Plan Submittals		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*X*	*N/A*

12.5.3 Sealing and Signing Requirements / Title Sheet Signatures

LPA's are required to meet DPOR requirements for the sealing and signing of plans by a Professional Engineer, Landscape Architect or Land Surveyor licensed to practice in the Commonwealth of Virginia.

When submitting for final approvals of federal phase authorizations for Right-of-Way and Advertisement, the mylar title sheet must also be signed by the appropriate responsible officials, in accordance with local government procedures. However, at a minimum, the Director of Public Works or other locality department director with the most direct supervision over the project must sign the title sheet. The local government signatures certify that the plans are complete, constructible, and biddable (ready for contract advertisement), that the necessary right-of-way has been addressed and accounted for, and that adequate funding has been identified to complete the project. The LPA is also certifying, by the signatures, that the plans were prepared by staff or consultants that exercised the appropriate standard of care and followed accepted standards, procedures, policies, methods of practice, etc., that are consistent with the engineering and design of plans for such work.

VDOT has internal process documents which outline the requirement for title sheet signature for VDOT administered projects. VDOT has prepared signature blocks for Title sheets for Federal-aid Tier 1 and Tier 2 Projects and State-aid Projects. Local Governments must utilize these; in addition, digital versions may be downloaded through VDOT's CADD Manual web site at: http://www.extranet.vdot.state.va.us/locdes/electronic%20pubs/CADD_%20MANUAL/cadd_cover.pdf as referenced in IIM204. Federal-aid Tier 1 and Tier 2 title sheets must be signed by the Locality and VDOT, while State-aid title sheets require only locality signatures.

12.5.4 Plan Reviews

At the project milestones requiring reviews by VDOT, the LPA Project Manager will submit a copy of the roadway and bridge plans in PDF format to the VDOT Project Coordinator.

12.5.5 Right of Way Plan Approval

Prior to Right of Way acquisition, the LPA Project Manager will submit a right of way plan package, which includes the latest estimate (not more than 90 days old) to the VDOT Project Coordinator to be processed for approval. The submittal will include the original Project Title Sheet for Right of Way Authorization signed by the person of responsible charge from the locality. By its signature, the LPA is certifying that the plans are complete and accurate for the acquisition of right of way and the relocation of utilities.

The LPA Project Manager will also submit the PM130 and Right of Way Checklist RW-301 to the VDOT Project Coordinator with the submittal. Detailed discussion of the Right of Way Plan approval and authorization process can be found in Chapter 16.

It is imperative that the LPA NOT incur any land acquisition or utility relocation expenses until federal authorization is approved, as costs incurred prior to federal authorization SHALL NOT be reimbursed and will be the responsibility of the locality. Please note, if the locality incurs any such expenses prior to federal authorization, they risk loss of federal participation on the project.

VDOT has internal process documents which outline the submission and review process for Right of Way Plans for VDOT administered projects. LPAs may utilize these as a reference.
http://www.extranet.vdot.state.va.us/locdes/electronic%20pubs/iim/IIM234.pdf

VDOT Responsibilities:

- *The VDOT Project Coordinator will coordinate the submission of the PM130 and RW-301/EQ-201 forms to the District R/W manager.*
- *The VDOT Project Coordinator will prepare and submit the LD-368 form after review of the LPA's Right-of-Way plans.*
- *Additional discussion on the Environmental approval process is contained in Chapter 15.*
- *Normally it takes 30 business days, from receipt of a complete package, to obtain authorization to proceed with Right of Way. When this authorization is issued, the locality will be notified by the VDOT Project Coordinator that it may begin negotiations/acquisition. This authorization will usually occur within the 60-90 day window for VDOT review of the complete package.*

12.5.6 Advertisement Plan Approval Process

When plans are ready for advertisement for construction, the LPA Project Manager will provide a PS&E submittal package to the VDOT Project Coordinator for construction authorization.

The submittal will include the original Title Sheet for Authorization to Advertise signed by the person of responsible charge from the LPA and signed and sealed by the Responsible Person (Licensed Professional Engineer, Certified Landscape Architect or Licensed Land Surveyor) in accordance with DPOR. By signature, the locality is certifying that the plans were prepared by staff or consultants that exercised the appropriate standard of care and followed accepted standards, policies, procedures, methods of practice, etc., that are consistent with the engineering and design of plans for such work and all plan review comments have been addressed.

Once the project design has been completed and approved to advertise, the LPA Project Manager shall provide the VDOT Project Coordinator with a CD of the complete plan assembly in PDF format to be stored in the VDOT Plan File Library.

The LPA must receive an Advertisement Authorization prior to advertisement or the project may become ineligible for reimbursement. A separate Authorization to Award the contract and begin construction is also required and will be provided after bids are received, tabulated and submitted to VDOT as addressed under the Authorization and Award section of this Guide.

VDOT Responsibilities:

- *The VDOT Project Coordinator will coordinate the submission and provide environmental certifications to the District Environmental Manager for coordination with the FHWA. The VDOT Project Coordinator will also coordinate review of the bid documents as outlined in the Advertisement and Award Chapter (Ch 12.6).*
- *Additional discussion on the Environmental approval process is contained in Chapter 15.*
- *Normally it takes 30 business days, from receipt of a complete package, to obtain federal authorization to advertise a project. When this authorization is received from FHWA, the locality will be notified by the VDOT Project Coordinator. This authorization will usually occur within the 60-90 day window for VDOT review of the complete package.*

12.5.7 Key Submittals / Requirements

Task/Submittal / File Documentation	***Locality Responsibility***	***VDOT PC Responsibility***	***Submittal Timing / Recordkeeping Requirements***
Plan Reviews	Submit plans for review	Coordinate VDOT Reviews of plans – focused on constructability and bidability	based on the schedule agreed upon by the Local PM & VDOT PC
Right of Way Plan Approval	Submit PM130, RW301 and RW plans for approval/authorization package to the VDOT PM	Process VDOT reviews and approvals of plans and, prepare and submit LD-368 and secure RW authorization	60-90 days before initiation of RW phase
Construction Plan Approval	Submit CN plans for approval/authorization package to the VDOT PM	Process VDOT reviews and approvals of plans and secure CN authorization	60-90 days prior to advertisement

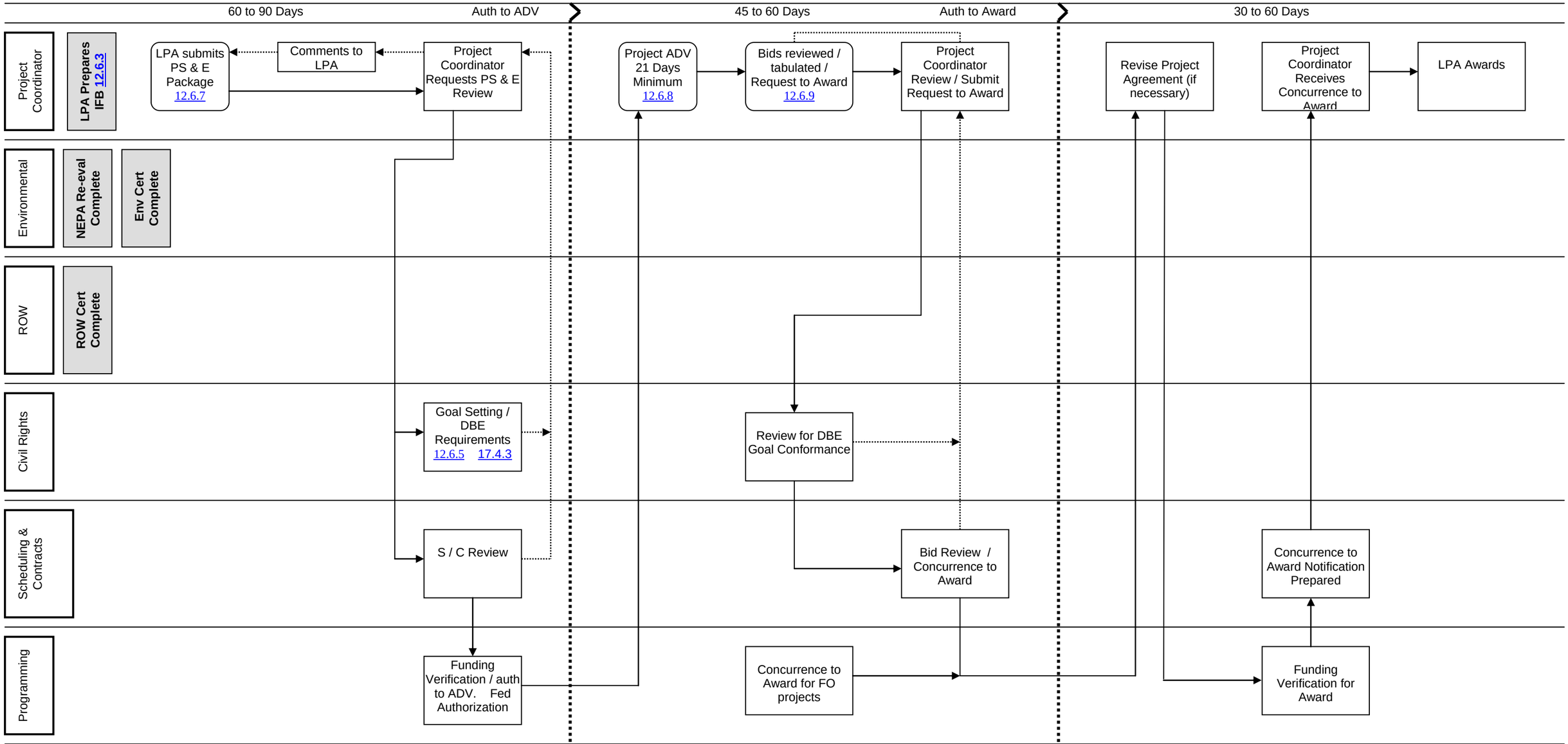
12.5.8 References

- Location & Design Instructional & Information Memoranda http://www.virginiadot.org/business/locdes/rd-ii-memoranda-index.asp
- Location & Design Forms http://www.extranet.vdot.state.va.us/forms/
- Environmental Forms http://www.extranet.vdot.state.va.us/forms/
- Right of Way Forms http://www.extranet.vdot.state.va.us/forms/

12.5.9 Regulatory References

- Efficiencies Agreement between VDOT and FHWA
- 23 CFR 635 Construction and Maintenance
- 23 CFR 771 Environmental Impact and Related Procedures
- 23 CFR 771.129 (c) Environmental Re-evaluation at Right of Way Authorization
- 23 CFR 645.115 Utility Relocations, Adjustments, and Reimbursement
- DPOR §54.1-400 (Sealing & Signing of Plans)

12.6 ADVERTISEMENT AND AWARD



CHAPTER 12.6 - ADVERTISEMENT AND AWARD

12.6.1 Introduction

12.6.2 Applicability

12.6.3 Development of the IFB

12.6.4 Bid Proposal and Contract Requirements

!2.6.5 Mandatory Federal Aid Provisions

12.6.6 Other Federal aid requirements

12.6.7 Plans Specifications and Estimates Submittal Package

- VDOT Responsibilities

12.6.8 Advertisement

12.6.9 Project Award

12.6.9.1 Bid opening and Analysis

12.6.9.2 Submittal of the Award Package

12.6.9.3 VDOT Concurrence to Award

12.6.6.4 Construction Dashboard

12.6.10 Local Force Construction

12.6.11 Key Submittals / Requirements

12.6.12 References

APPENDICES

Appendix 12.6-A – Advertisement and Award Submittals Checklist

Appendix 12.6-B – Locality Certification of Documents and Federal Criteria Sheet

Appendix 12.6-C - Project Delivery Key Requirements Summary Table/Checklist

12.6.1 Introduction

This chapter outlines the requirements associated with advertisement and award of federal-aid projects. State-aid projects, included in the SYIP or the SSYP, must receive concurrence to award and submit a Project Award Submittal Package to the Project Coordinator prior to contract letting.

12.6.2 Applicability

- All federal-aid projects and projects developed to qualify for federal-aid.
- *****State-aid projects funded with formula allocations must receive funding verification and authorization from VDOT prior to award. A Project Award submittal package must be submitted to the VDOT Project Coordinator.

Advertisement & Award		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*	*

12.6.3 Development of Invitation for Bid / Contract Documents

The LPA is responsible for preparing the bid package which contains the plans, addenda, special provisions, supplemental specifications, and the bid proposal. When using federal-aid, LPAs must comply with 23 CFR Section 635 which describes federal regulations governing construction contracts. Exceptions to these requirements are provided for some off-right of way projects (see Chapter 5 for additional discussion).

12.6.4 Bid Proposal and Contract Requirements:

The bid proposal and contract must contain the following elements:

- Instructions to Bidders
- General Contract Provisions

- Proposal / Agreement forms / Terms of the Contract
- Schedule of Bid Items, Fuel Adjustment, Steel Adjustments, etc.
- Reference to VDOT specifications including any modifications to VDOT specifications or local specifications being used (note: additional time for review of these may be necessary)
- Addenda Sheet(s)
- Subcontractor Solicitations
- Permits and Permit Requirements

Localities are reminded that IFB's must **NOT** contain any negotiation clause(s) or any reference to a locality policy that provides for contract negotiation. Bid negotiation is strictly prohibited as set forth in 23CFR635.113.

12.6.5 Mandatory Federal-aid Provisions:

Mandatory federal-aid provisions are listed and can be obtained from VDOT's Web site at http://www.virginiadot.org/business/resources/const/Local_Admin_Guidelines_Fed_Funds.pdf . The FHWA Form 1273 must be included in the contract verbatim. No modifications are allowed. A detailed discussion of all mandatory federal-aid contract provisions can also be found in the FHWA Contract Administration Core Curriculum Participants Manual and Reference Guide.

In addition to those mandatory federal-aid provisions, the LPA must include the following in their construction contracts:

- Language to address any conflict between state or local contract language and federal rules. When conflicts arise the federal-aid or most conservative approach must be taken. For off-system (off right of way) projects, State procurement laws and regulations may apply (49 CFR18) (See Chapter 5 for further details).
- Language to address or a reference to a contractor claims process.
- DBE language is also required in all federal-aid contracts. VDOT will review and

potentially establish a DBE goal, on all federal-aid projects valued over $100,000. The goal will be determined based on available DBEs in the project area and on contract items amenable to the work performed by those DBEs. **NOTE: a SWAM vendor may not necessarily also be a DBE contactor or meet the requirements as a DBE contractor.**

- Chapter 17 contains mandatory Civil Rights forms and language that must be included in each federal-aid contract. These include:
  - C-104 Bidder Statement
  - C-105 Bidder Certification
  - C-111 (Minimum DBE Requirements)
  - C-112 (Certification of Binding Agreement)
  - C-48 (DBE- Good Faith Efforts Documentation)

12.6.6 Other federal-aid requirements

- **For traditional highway construction federal-aid projects, local governments must use VDOT Pre-qualified contractors.**
- Vendors who are, at the time of the bid opening, debarred from federal-aid work, are not eligible for federal-aid projects.
- LPAs may be required to accommodate an OJT program for project. This will be determined by the VDOT Civil Rights Division during DBE goal-setting review.

12.6.7 PLANS, SPECIFICATIONS, AND ESTIMATES SUBMITTAL PACKAGE

Prior to the locality's request for federal authorization to advertise, the following items must be completed:

- Right of Way Certification as outlined in Chapter 16 of this Manual is required for federal-aid projects. Local governments certify their compliance with other right of way acquisition requirements for non federal-aid projects.
- Environmental Re-evaluation at PS&E, for federal-aid projects (see Chapter

15.11)

- Environmental Certification, for federal-aid projects. For non federal-aid projects, LPAs will certify their compliance with applicable environmental laws and regulations. (see Chapter 5).
- **For Recovery Act Projects an FHWA developed PS&E Recovery Act Checklist must be completed and it must be submitted it to the PC and included in the PS&E Package.**

When a federal or state-aid project (see Chapter 5 for exceptions) is ready to be advertised for construction, the project must first receive an advertisement authorization. **Failure to obtain federal authorization to advertise for construction will jeopardize federal funding to the project. It is important for LPA's to ensure that this authorization has been obtained prior to advertisement. Proceeding with advertisement without federal authorization will jeopardize reimbursement of federal aid.**

To obtain this authorization, the locality must submit a PS&E Submittal Package to VDOT's Project Coordinator. This submittal package will include the following items:

(1) PS & E Submittal Form. This form will state that items #2 through #8, below are being submitted and must be signed by the local official responsible for the project.

(2) A current engineer's estimate (dated within 90 days of advertisement);

(3) Final Invitation for Bid and Contract Documents – 2 sets

(4) Complete sets of plans

(5) Signed Mylar Title Sheet, containing appropriate VDOT signature blocks (separate VDOT signature blocks are required for Tier 1 and Tier 2 projects).

(6) Locality/VDOT Certification of Documents. All boxes must be checked except for those items that may not be applicable and have an "N/A" box. By completing this form the LPA is certifying that the items listed on the form (required to obtain

Federal Authorization to Advertise the project) have been completed, checked and the Proposal & Plans have been prepared in accordance with the standards and requirements included in the LAP Manual. (Appendix 12.6-B)

(7) If additional funds are needed than those shown in the SYIP or SSYP, a source needs to be identified and the Project Administration Agreement must be modified.

(8) Evidence that a willingness to hold a public hearing was posted or evidence of having held a public hearing or that a decision that a willingness was not necessary was made during scoping (See CH 12.4.5).

If project plans are revised after authorization to advertise was issued, the LPA must re-submit plans for review in accordance with Chapter 12.5. A replacement signed mylar Title Sheet must also be submitted to the PC who will then forward it to the Plan Coordination section with a request to obtain appropriate signatures.

VDOT Responsibilities (reviews or approvals at Central Office apply only to Tier 2 projects)

- *The VDOT Project Coordinator will conduct an extensive review the locality's PS&E Package submittal,* ***including the Recovery Act PS&E Checklist when necessary****, and request any additional information from the LPA prior to forwarding to the Central Office Plan Coordination Section.*
- *Review and include in the PS&E package the Locality/VDOT Certification of Documents form.*
- *Complete and sign the VDOT District Certification section of the Locality/VDOT Certification of Documents*
- *For all FO and NFO projects, review and submit the PS&E package and signed Locality/VDOT Certification of Documents. District staff will review the PS&E package and obtain required District Title Sheet signatures prior to submission to S&C Division, for Tier I projects. For*

Tier 2 projects, the Project Coordinator will submit the completed PS & E Submittal Form and LPA-signed mylar title sheet to the L&D Plan Coordination section with a request to obtain appropriate VDOT Central Office signatures.

- *Review and include in the PS&E submittal package the Locality/VDOT Certification of Documents form.*
- *The Project Coordinator will submit one copy of the IFB and a full set of plans to the locally administered projects federal submissions officer (S&C Division).) For Tier 1 projects, include the LPA and District-signed Title Sheet.*
- *Submit one copy of the IFB to the District Civil Rights Manager who will review and forward to the Central Office Civil Rights office.*
- *Scheduling and Contracts Division will prepare a cost summary and forward to Programming Division to obtain federal authorization to award.*
- *Comments on the bid documents and the DBE goal will be provided to the Project Coordinator who will forward to the Locality Project Manager to include in the final advertisement documents.*
- *The Project Coordinator will notify the LPA Project Manager when Federal Authorization to advertise has been obtained and State funding verification is complete. A copy of the federal agreement will be provided to the local government.*
- *Where practical, the Project Coordinator to ensure all documents necessary for advertisement approval are in files and uploaded into iPM, in the Project Documents section.*

Normally it takes 30 business days to obtain federal advertisement authorization after submittal of a complete PS&E Package. The VDOT Project Coordinator will notify the LPA, in writing, after receiving the federal authorization.

Prior to advertisement the locality must incorporate comments provided by the VDOT federal submissions officer (advisory comments, excluded) and must incorporate the DBE Goals provided by the VDOT Civil Rights Division. Should subsequent reviews or audit reveal that required provisions were not included, VDOT may pursue reimbursement of expended funds.

State Funded Projects

The LPA must request and receive funding verification prior to advertisement. The Project Coordinator will notify the Locality that funding verification (PD-4) has been received. Funding verification takes 20 business days to complete.

VDOT Responsibilities

- *The Planning and Investment Manager specifically requests Funding Verification from the Programming Division.*
- *The Programming Division issues the signed PD-4 to the Planning and Investment Manager, who will notify the Project Coordinator that funds have been verified.*
- *Upon receipt of the signed PD-4, the Project Coordinator will notify the locality that funding verification has been received and it may proceed with advertising the project.*

Special State-aid Projects

Projects funded strictly through special funding programs, such as access or revenue sharing funds have previously received CTB authorization and do not require additional Commissioner or CTB authorization to advertise or award. Right of Way Certification is not necessary and the PS&E package is reviewed and approved at the District level.

The LPA must notify the Project Coordinator when the project is advertised, when it is awarded, and the final award amount.

VDOT Responsibilities:

- *The Project Coordinator will enter the advertisement and award dates into the project pool schedule and will update the project estimate.*

12.6.8 ADVERTISEMENT

Federal-aid contracts must be advertised for a minimum of three weeks (21 days). State-aid projects may be allowed a shorter time-frame in accordance with the VPPA.

LPAs must provide notice to the Project Coordinator that the contract is being advertised and where the public notice and bid documents can be obtained.

12.6.9 PROJECT AWARD

12.6.9.1 Bid Opening and Analysis

The bid opening must be made in a public forum and read aloud. The LPA must record the actual time and date of the bid openings and record any attendees.

The LPA will perform a preliminary evaluation of the bids for responsiveness and errors and determine the apparent low bidder prior to submittal to VDOT for bid review and final authorization. Any determination that a bid is non-responsive must be documented and kept in the project file for a minimum of three years after the financial close-out of the project. The following lists some, but not all, reasons a bid may be deemed unresponsive:

(1) Failure to sign the bid or the bid is signed by an unauthorized individual;
(2) Failure to furnish or sign a required bid bond;
(3) Failure to commit to DBE goals or demonstrate a good faith effort to do so, if required in the IFB;

(4) Failure to be prequalified, if required in the IFB;

(5) The apparent low-bid is excessively over/under the engineer's estimate.

For federal-aid contracts, the LPA must consult with the VDOT Project Coordinator and obtain concurrence from VDOT when making a determination that an apparent low-bidder is non-responsive. **Determination of good faith efforts, when DBE goals have not been met MUST be made in coordination with VDOT's Civil Rights Division.** If the LPA determines that it will not award the contract to the lowest, responsive bidder, it must contact the VDOT Project Coordinator and provide written justification for the decision. The VDOT Scheduling and Contract Division must concur in the rejection of these bids. If VDOT cannot concur with the locality's justification, the locality will not be given authority to award the contract to another bidder on the same contract at the same letting.

12.6.9.2 Project Award Submittal Package

After the LPA makes the preliminary determination of the apparent low-bidder, the LPA shall submit to the VDOT Project Coordinator a request for bid review. This request will contain the following:

1. A letter stating that the locality intends to award the contract to the apparent low-bidder.
2. A detailed explanation if the award is to a bid which is 10% over the engineer's estimate.
3. A list of significant (25%) deviations in low bid unit prices from the engineer's estimate.
4. the number of bidders on the project
5. A tabulation of **each** bidding contractor's prices with Engineer's Estimate
6. The recommended low bidders name, mailing address and low bid amount including any proposed bid alternates.
7. Who (with title) opened the bids, where & when, including the advertisement date

and the date bids were opened.

8. Required completed DBE Forms (C111, C112, C48, & C49)
9. Proof of required bonds
10. Required contractor certification forms (C104 & C105)

For any bid proposal and contract that received significant comments during the PS&E Package review, VDOT may request that the LPA submit the final bid proposal and contract for review, to ensure that all mandatory items were included in the contract. VDOT will only review the final bid proposal and contract for those items required to be included.

VDOT will make an independent evaluation of the bid, examining the unit bid prices for reasonable conformance with the engineer's estimated prices.

VDOT will also review the bidder's conformance with the DBE goals or, if necessary, their documentation of good faith efforts to meet the DBE goal.

12.6.9.3 VDOT Final Award Authorization

After VDOT determines that the recommendation by the LPA is acceptable, project funding is verified through the VDOT Programming Division. After funding verification the S&C Division will forward to the Project Coordinator the completed "funding distribution sheet".

Prior to final award the Project Administration Agreement must be amended to adjust for funding expended during the preliminary engineering and right of way phases, for the estimated construction costs and (separation) of funding sources (See Chapter 10 of this Manual).

VDOT Responsibilities:

- *The Project Coordinator will accept and review the Project Award*

Submission Package and forward the entire package ***with a recommendation*** *to S&C Division for Review;*

- *The PC will forward to the DCRM, who will review and forward to Central Office Civil Rights Division the following:*
    - *Recommended low bidders Name, Mailing Address and Low Bid Amount and tabulation;*
    - *Required completed DBE Forms (C111, C112, C48, & C49)*
- *S&CD and the Civil Rights Division will notify the Project Coordinator if additional information as necessary. The Project Coordinator will forward the request to the LPA and coordinate obtaining additional information as necessary;*
- *After resolution of any outstanding items, the S&C Division will verify funding through the Programming and provide a copy of the funding verification to LAD.*
- *The Project Coordinator will amend the Project Administration Agreement Appendix A to reflect actual expenses incurred during the PE and ROW phases and the construction award amount.*
- *Upon receipt of authorization to award from S & C Division, the Project Coordinator will notify the LPA, in writing that the project may be awarded.*

12.6.9.4 Construction Dashboard

After the project is awarded, LPAs administering VDOT projects in the Six Year Improvement Program, Secondary Six Year Improvement Program, or Urban Program are required to report project progress utilizing VDOT's Dashboard LAP web based tracking module. Information on this program is available on the Local Assistance Division website.

12.6.10 Local Force Construction

Section 33.1-190 of the Code of Virginia provides that state and or locality employees may be used for construction of projects estimated at $600,000 or less. In addition the Commissioner of Highways may enter into an agreement with a locality to construct or maintain any roads in the system of state highways provided the locality has obtained a cost estimate of not more than $1 Million and the locality has received fewer than two bids from private entities to perform such work.

A "Finding of Cost Effectiveness" shall be submitted to VDOT's Project Coordinator and subsequently approved by FHWA. The locality must not begin construction work utilizing its own forces until such time as it has received concurrence to do so from the Project Coordinator.

For non federal-aid projects, all requirements are the same as above, except that the special federal regulations and a "Finding of Cost Effectiveness" are not required for use of a locality's forces to construct a project. However, if a locality requests authority to perform construction work utilizing its own forces, the request shall be evaluated in the same manner that VDOT evaluates requests to perform work with state forces, including the requirement that a cost benefit analysis be prepared which indicates that using locality forces results in lower cost and equal or faster project completion than the competitive bid process. The cost benefit analysis and supporting documentation shall be submitted to VDOT's Project Coordinator. **The LPA should not begin construction work utilizing its own forces until such time as it has received concurrence to do so from the Project Coordinator**.

12.6.11 Key Submittals / Requirements

Task/Submittal/File Documentation	***LPA Responsibility***	***VDOT P.C. Responsibility***	***Submittal Timing/ Recordkeeping Requirements***
PS&E Submittal Package	Ensure a complete quality submittal	Review for completeness, upload pertinent info in iPM, forward to appropriate VDOT staff	LPA to submit at least 30 business days prior to target advertisement date; VDOT to approve & provide advertisement authorization within 20 business days
Recovery Act PS&E Checklist	Complete as necessary	Review for completeness, Forward with PS&E Package	Forward to FHWA as required
Project Award Submittal Package	Ensure DBE goals / good faith effort; package is complete;	S&C and CR Divisions to review	LPA to submit at least 20 business days prior to target award date
Construction Dashboard Information	Enter into VDOT Construction Dashboard	VDOT Construction Project Monitor will ensure projects are in Dashboard at first billing	Immediately after notice to proceed;

12.6.12 References

23 CFR 630, Subpart B - Plans, Specifications, and Estimates

23 CFR 633, Subpart A – Required Contract Provisions - Federal-aid Construction Contracts

- 23 CFR 635
- VA Public Procurement Act; Code of Virginia Title 2.2 Chapter 43

- FHWA Contract Administration Core Curriculum Participants Manual and Reference Guide
- VDOT/FHWA 2007 SAFETEA-LU Efficiencies Agreement (Pages 5 thru 9 Project Authorizations)
- FHWA Guidelines on Preparing Engineer's Estimate, Bid Reviews and Evaluation http://www.fhwa.dot.gov/programadmin/contracts/ta508046.cfm

Appendices:

Appendix 12.6 A - Advertisement and Award Checklist

Appendix 12.6 B – Locality/VDOT Certification of Documents Form

Appendix 12.6 C – Project Delivery Key Requirements

Appendix 12.6 –A
Checklist
Advertisement & Award for Construction

Projects Requiring Authorization to Advertise & Award

Submittal for Review

The following must be received by VDOT's Project Coordinator 30 business days prior to advertisement.

1. __ Bid Documents
2. __ Estimate
3. __ Complete set of plans

Submission of Finalized Documents for Projects Requesting Authorization to Advertise

The locality shall ensure that VDOT's Project Coordinator has received the following information for submission to Scheduling and Contract Division **no less than 20 business days** prior to advertisement.

1. __ Request for authorization to advertise the project
2. __ Engineer's Estimate (dated within 90 days of advertisement)
3. __ Copy of the proposal
4. __ Locality Certification of Documents (Complete and Sign Appendix 12.6-B)

Submission of Documents for Projects Requiring Authorization to Award

After receipt of bids the locality shall ensure that VDOT's Project Coordinator has received the following information for it to be submitted to Scheduling and Contracts **no less than 20 business days** prior to target award date.

1. Narrative description (containing the project number and location) of the project purpose. One paragraph in layperson's language
2. Recommendation for award and a detailed explanation if recommending a bid for award if over 10% of the Engineer's Estimate
3. A list of significant (25%) deviations in low bid unit prices from the engineer's estimate.
4. Number of bidders on the project
5. Tabulation of **each** bidding contractor's prices with Engineer's Estimate
6. Recommended low bidders Name, Mailing Address & Low Bid Amount
7. Cost summary based on Contractor's bid
8. Who (with title) opened the bids, where & when
9. Required completed DBE Forms (C111, C112, C48, & C49)
10. Proof of required bonds
11. Required Contractor Certification Forms (C104 & C105)

•***All Federally*** *funded projects require VDOT authorization to award*

Appendix 12.6B

Locality/VDOT Certification of Documents

(LAP 402A) CERTIFICATION OF DOCUMENTS

(To be completed by LPA Project Manager)

STATE PROJECT#: _____
FEDERAL PROJECT #: _____
UPC: _____

☐ NEPA Document
☐ Permits (if applicable) ☐N/A
☐ Waivers & Design Exceptions (includes criteria)
☐ Right of Way Certification (includes Railroad & Utilities certifications)
☐ Agreements (includes Railroad, Utilities and Right of Way)
☐ Public Hearing/Willingness/Waiver requirements per LAP Manual Ch 12.4 have been met
☐ Design is in accordance with appropriate Design Criteria or Waiver
☐ Sequence of Construction/Transportation Management Plan (TMP) (required for roadway projects) ☐N/A
☐ Plans / No-Plan Assembly
☐ Proposal
    ☐ Required Forms
    ☐ Required Federal Provisions & Current Wage Rates
    ☐ Environmental Permits (if applicable) ☐N/A
    ☐ Project Specific Provisions
☐ Engineer's Estimate (dated within 90 days of advertisement) including Construction Engineering & Inspection (CEI), Contingency, Local Forces, Contract Requirements, & Railroad Cost for Budget
☐ Environmental Certification EQ-103 (provided by VDOT)
☐ PS&E Re-evaluation (provided by VDOT)
☐ R/W Certificate No. _____ Date _____ (provided by VDOT)

I certify for the subject project the required items listed above and necessary for federal authorization to advertise have been completed, checked and the Proposal & Plans have been prepared in accordance with the standards and requirements included in the Locally Administered Projects Manual and are attached.

_____	_____	_____
Locality Project Manager	Printed Name	Date

VDOT DISTRICT CERTIFICATION

I certify for the subject project the required items listed above and necessary for federal authorization to advertise have been completed, reviewed by District staff, entered into iPM where applicable, and the Proposal & Plans have been prepared in accordance with the standards and requirements included in the Locally Administered Projects Manual and are attached.

_____	_____
VDOT District Administrator or Designee	Date

APPENDIX 12.6C

Project Delivery Key Requirements Summary Table/Checklist

Chapter 12 – Project Delivery Key Requirements Summary Table/Checklist
(provisions of FHWA Recovery Act checklist have been incorporated; however the Recovery Act checklist must be completed and submitted with Recovery Act project PS&E packages)

F	***S-V***	***S-L***	***Requirement***	***Chapter / Section***
	--	--	**Chapter 12.1 Project Scoping**	
x	--	--	Scoping Report[1] (23CFR652.5, 652.7(b))	12.1.3
x	x	x	Preliminary Project Cost Estimate	12.1.3
			Chapter 12.2 Plan Design	
x	x	--	Design meets VDOT Standards	12.2.3
x	x	x	Design meets AASHTO Standards	12.2.3
x	x	x	LD-440 for Design Exception (to AASHTO)	12.2.4
x[2]	x	--	LD-448 for Design Waiver (to VDOT Standards)	12.2.4
x	x		Hydraulics included in plan design (23CFR650.117)	12.2.5.5
x	x	x	Water pollution, sediment & erosion control measures included (23CFR635.309(i))	15.8
x	x	x	Traffic control devices per MUTCD (23CFR309(n))	12.2.5.3
x	x	x	Value Engineering for Projects over $5 Million	12.2.5.9
x	x	--	Preparation of TMP	12.2.5.7
			Chapter 12.3 Project Budget, Schedule, & Estimates	
x	x	x	Establish Projected Project Activities Schedule	12.3.3
x	x	x	Project funding verification (23 CFR 450.216)	12.1.3
x	x	x	Provide PCES Estimate (every 90 days)	12.3.4
			Chapter 12.5 Plan Submittals & Approvals	
x	x	--	30/60/90% Plan Submittal[3]	12.5.1
x	x	--	R/W Plan Review Approval (see Chapter 16)[4]	12.5.5/ 16.
x			RR Agreement if applicable (23CFR635.214(b), 635.216(d)	
			Chapter 12.6 Advertisement & Award	
			PS&E Submittal Package[5]	12.6.7
x	--	--	• Submit IFB/Contract for Review	12.6.5
			- Mandatory Federal-aid Provision included in IFB/Contract (incl FHWA1273)	17.3.2
x	--	--	- Civil Rights Language included in IFB/contract	12.6.5 / 17.3
x	--	--	- Review for and inclusion of DBE Goal in IFB/contract (23CFR635.107)	12.6.5 / 17.4
x	--	--	- US DOL Minimum Wage Rates (23CFR635.309(f))	17.3.7
x	--	--	- OJT provisions included (23CFR230.111)	17.5
x	--	--	- Restrict bidders to VDOT Pre-qualified contractors	12.6.6
x	x	--	• Engineer's Estimate with cost summary	12.6.7
x	x	--	• Complete set of plans	12.6.7
x	--	--	• Environmental conditions and commitments documented (23CFR635.309(j))	15.2
x			• Specifications include written instructions for constructing the project (23CFR630.205(b)	N/A
x	x	--	• Signed Mylar Title Sheet[6]	12.6.7
x	--	--	• FHWA Certification (Appendix 12-B)	12.6.7

x	--	--	• Evidence of Public Hearing, notice, or Willingness	12.6.7
x	--	--	Receive Construction Advertisement Authorization from VDOT	12.6.7
x	x	--	Advertise 21 days & maintain supporting documentation[7] (23CFR635.112)	12.6.8
			Bid Analysis & Award	
x	x	--	Publicly read bid-opening & maintain supporting documentation	12.6.9
x	--	--	Ensure selected responsible, low-bid contractor is not de-barred from federal work (49CFR29)	12.6.6
x	--	--	Unit prices do not vary significantly from engineer's estimate (23CFR635-114)	12.6.9.2
x	--	--	Bid not mathematically unbalanced (23CFR635.114)	12.6.9.2
x	--	--	Materials not significantly unbalanced (23CFR635.114)	12.6.9.2
x	--	--	DBE participation meets goal (49CFR26)	17.4.5
x	x[8]	--	Authorization to Award Request (Project Award Submittal Package)	12.6.9.2
x	x[9]	--	Receive Final Authorization to Award from VDOT	12.6.9.3
x	x	x	Create Project Profile[10]	13.1.4.2

[1] CTB Policy on Bicycle / Pedestrian Accommodations must be considered and submitted for all state-aid projects; a complete scoping report is required for any federal-aid project.
[2] Federal-aid projects on locally maintained roads do not require design waiver; AASHTO is minimum standard
[3] As determined by Project Complexity / Risk
[4] R/W Certification Approval is only required for federal-aid projects and when underlying fee ownership of R/W will be transferred to VDOT. Otherwise R/W Plan Review will be performed only ensure that appropriate R/W is acquired to meet future highway maintenance needs
[5] PS&E Package is reviewed in Central Office for federal-aid projects; state-aid only are reviewed in District
[6] Mylar must include VDOT signature blocks for federal-aid projects
[7] State-aid projects may be advertised less that 21 days in accordance with VPPA
[8] State-aid Formula-funded projects; Concurrence for Revenue Sharing and Access Projects is not required; prior authorization through CTB action to allocate the funding
[9] For projects 2 million or less, Concurrence provided by VDOT Commissioner; over 2 million the Commonwealth Transportation Board provides concurrence
[10] Required for projects funded with "formula" funds; NOT required for Revenue Sharing, Access or Enhancement projects

Locally Administered Projects (LAP) Manual

PART 2
Project Management

Chapter 13

Project Delivery (Construction administration)

CHAPTER 13

CONSTRUCTION ADMINISTRATION

13.1 - Construction Administration

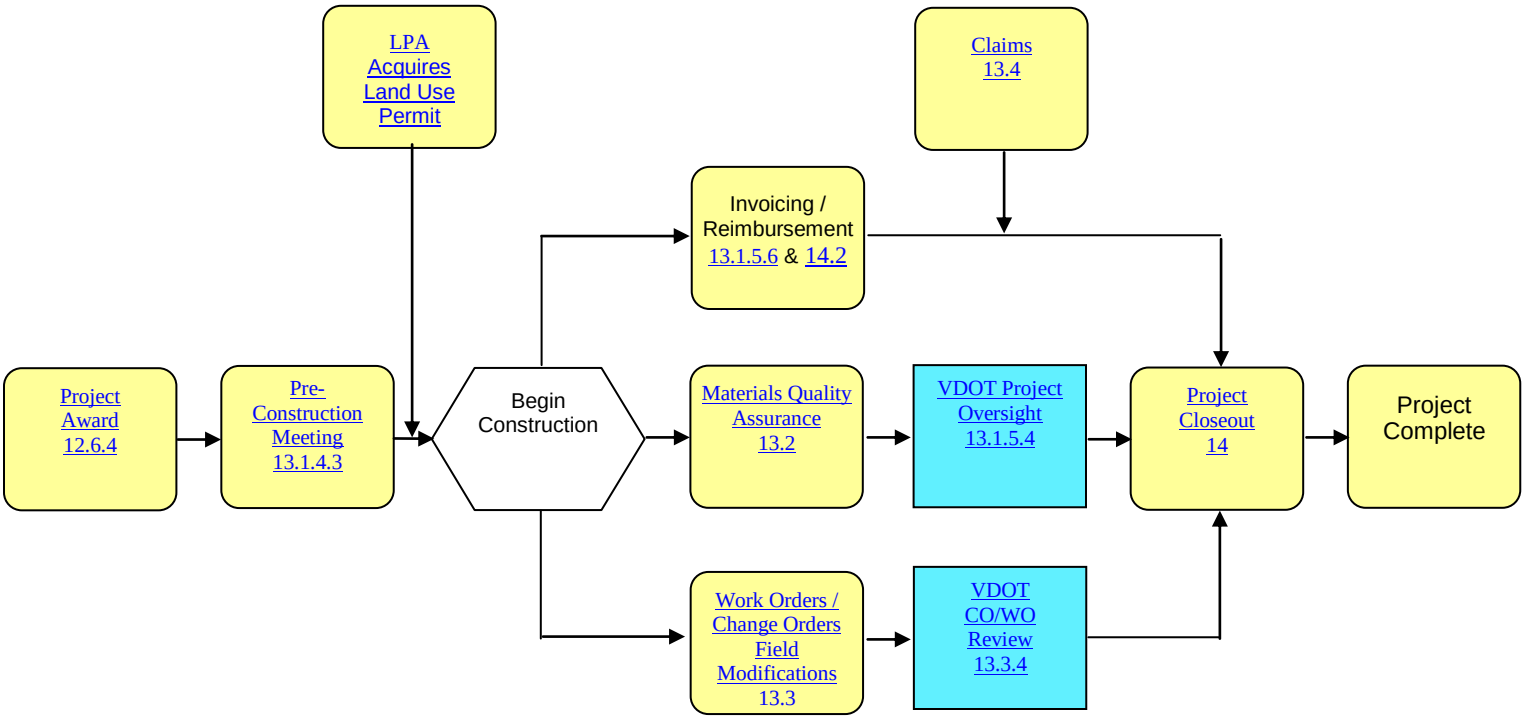
13.2 - Materials Quality Assurance

13.3 - Change/Work Orders

13.4 - Claims

Appendix 13-A Construction Administration Checklist

CHAPTER 13.1
CONSTRUCTION ADMINISTRATION AND MATERIALS QUALITY ASSURANCE



Chapter 13.1- CONSTRUCTION ADMINISTRATION

This chapter includes the following topics

13.1.1 Introduction

13.1.2 Applicability

13.1.3 Summary

13.1.4 Pre-Construction Activities

- 13.1.4.1 Project Bonding
- 13.1.4.2 VDOT Databases
- 13.1.4.3 Pre-Construction Conference
- 13.1.4.4 Project Schedule

13.1.5 Construction Activities

- 13.1.5.1 Project Documentation
- 13.1.5.2 Qualifications of On-site Personnel
- 13.1.5.3 Materials Acceptance / Assurance
- 13.1.5.4 Project Monitoring and Oversight
- 13.1.5.5 Field Modification to Approved Design
- 13.1.5.6 Project Reimbursement Requests

APPENDICES

A DUAL OBLIGEE SURETY RIDER

B PROJECT OVERSIGHT RISK ASSESSMENT SCORING

C PRE-CONSTRUCTION MEETING TOPICS OF DISCUSSION

D TYPICAL PROJECT DOCUMENTATION

E CONSTRUCTION OVERSIGHT / FIELD REVIEWS / EVALUATIONS

F RECOMMENDED REIMBURSEMENT REQUEST COVER LETTER

13.1.1 Introduction

Construction administration is the management of all construction activities necessary to ensure the completion of a high quality product meeting all contract specifications, and applicable federal, state, and local laws and regulations. Construction administration is the responsibility of the LPA through its Construction Project Engineer. LPAs and their contractors are responsible for compliance with all applicable federal, state, and local laws and regulations, including, but not limited to, occupational health and safety, environmental compliance, and equal employment.

13.1.2 Applicability

- All federal-aid projects and projects developed to qualify for federal-aid.
- All projects to be maintained by VDOT, except as noted.

13.1.3 Summary

LPAs are fully responsible for the administration of their projects and are required to provide a full time local government employee responsible for the project and an engineer who must be licensed as a professional engineer in Virginia, who may be contracted. Unless otherwise established in the project administration agreement, the LPA is also responsible for providing adequate construction engineering inspection to ensure that the project is constructed in accordance with the contract documents. Also, the LPA's responsibility includes maintaining sufficient documentation to demonstrate that this has been accomplished.

Federal law provides that VDOT may allow a LPA to perform construction administration for a federal-aid contract; however, VDOT is not relieved of overall project responsibility. VDOT must provide reasonable assurance to FHWA that all federal requirements resulting from the acceptance of federal-aid are met and that the LPA is adequately staffed and suitably equipped to undertake and satisfactorily complete the work. State

law does not specifically provide such an oversight requirement; however, VDOT has a responsibility to ensure funds provided to sub-recipients are appropriately spent and, in the case where VDOT will ultimately maintain the project, has a vested interest in the quality of workmanship and materials used for the project. VDOT's oversight role is not to duplicate the actions or responsibilities of the locality; rather, it is to ascertain whether or not the construction project is being performed in reasonable accordance with the contract documents.

Construction administration actually begins prior to the advertisement of the construction project, with the development of bid and contract documents, and, depending on the project's complexity, includes close coordination with VDOT representatives. Considerations regarding materials sources, off-site testing of materials, costs for VDOT oversight, civil rights, and environmental monitoring are but a few of the issues that should be discussed while preparing for advertisement, usually in a pre-advertisement meeting.

VDOT's Construction and Inspection Manuals are the primary resources for LPAs during construction administration. Reasonable conformance to the quality assurance and inspection requirements listed in these Manuals is necessary for all federal-aid projects and projects to be maintained by VDOT, except as otherwise noted within this Manual. When there are significant deviations from these requirements, the LPA must document fully the nature of the deviation and how reasonable quality assurance and contract conformance was assured, unless previous concurrence has been obtained from the VDOT ACE or designee.

VDOT Responsibilities:

- *Prior to advertisement of the project, the VDOT Project Coordinator will contact the Area Construction Engineer and inform him/her of the upcoming advertisement. The ACE is typically the VDOT employee that will be responsible for LPA Administered projects under*

construction; however, the District Administrator has discretion to assign that role to other appropriately qualified district staff. The ACE will typically assign a primary VDOT contact, usually a staff engineer, for the project delivery (construction) phase of the project. This person is referred to as the VDOT Construction Project Monitor.

The assigned VDOT Construction Project Monitor will also:

- *Establish an appropriate level of oversight in accordance with the Guidance provided in Appendix B of this chapter, if necessary.*
- *Attend any pre-advertisement meeting and share the determined level of oversight with the LPA.*
- *Facilitate any discussions between other VDOT disciplines and the LPA.*
- *Develop a cost estimate detailing necessary project oversight costs, by discipline, and provide to the LPA.*
- *Provide the Local Assistance Division with oversight cost estimate. The Local Assistance Division will amend the Project Administration Agreement if necessary.*

After project advertisement, the Construction Project Monitor will be the primary project contact for the LPA.

13.1.4 Pre-Construction Activities

13.1.4.1 Project Bonding

Before a LPA can begin work on a roadway that is maintained by VDOT as part of the interstate, primary, or secondary system of highways, it must secure a land use permit from VDOT. This permit is issued through the VDOT Residency or District Land Development Office and is usually issued at no cost. In these cases, the costs

associated with VDOT inspection/oversight are addressed in the Project Administration Agreement.

In lieu of a surety, the LPA may offer a letter that indicates the locality has a surety bond on file from the contractor that guarantees performance during the project. The letter should be attached to the land use permit and include a copy of the surety. If the LPA is the permittee for the land use permit, the letter simply needs to indicate that the locality will guarantee performance through a resolution of the governing board.

Another option for a LPA is to allow the contractor to provide a dual obligee surety bond that names VDOT as well as the LPA as the obligee. For surety bonds that are already in place, the contractor can execute a dual obligee rider to the existing bond. Appendix A to this chapter provides a sample of a dual obligee rider that can be used for this purpose.

13.1.4.2.1.1 VDOT Databases

PCES / Dashboard Updates		
Federal-aid	*State-aid / VDOT Maintained**	*State-aid / LPA Maintained**
X	*X*	*X*

** State-aid projects which are not formula funded (e.g. Revenue Sharing, Access, etc.), are not required to use or input data into PCES.*

PCES

VDOT's Project Cost Estimating System (PCES) is VDOT's primary long-range project budgeting tool and is used to ensure that projects are appropriately funded throughout project development and delivery. For projects in VDOT's SYIP, the LPA must coordinate with the CPM to ensure increases in project costs which will be reimbursed through VDOT are reflected in PCES.

Construction Dashboard

VDOT is committed to transparency in all of our operations. As such, all projects in the Six Year Improvement Plan, including those administered by LPAs, are included on VDOT's construction Dashboard.

LPAs are required to ensure that any SYIP/SSYP project is included in Dashboard within 30 days of issuing notice to proceed to their contractor. Note that this does not include projects funded entirely through Revenue Sharing or Access Programs. The project profile will initially include the total project costs and the scheduled completion date. **Quarterly, the LPA is required to update the project profile to include expenses to date.** Projects which are not updated will be reported as late or over expended according to the business rules of Dashboard.

The LPA Construction Dashboard Manual can be found on VDOT's Local Assistance Division web-page at
http://www.virginiadot.org/business/resources/Dashboard_Users_Guide.pdf
Inclusion of SYIP projects in the Construction Dashboard is a requirement of the Project Administration Agreement. Failure to include a project profile in the LPA Construction Dashboard may result in the delay of project reimbursements to the LPA.

13.1.4.3 Preconstruction Conference(s)

A preconstruction meeting is strongly encouraged for all projects. For most projects, a single preconstruction meeting to include the LPA, the LPA-designated construction project engineer, the contractor, the ACE designee, and other appropriate VDOT staff should be held. However, for complicated projects requiring a high level of planning and coordination with VDOT, the LPA may find it desirable to hold a separate preconstruction meeting with their construction project engineer and VDOT staff. Appendix C, to this chapter, contains a list of issues and topics which should be

discussed with both VDOT staff and the construction contractor during the preconstruction meeting(s).

For Federal-aid projects, VDOT attendees usually include, the CPM, a District Materials section representative, a District Civil Rights Monitor, and a District Environmental Monitor (when NEPA commitments are required).

VDOT Responsibilities:

- *Review previously agreed upon arrangements to ensure VDOT support to the project and VDOT oversight costs to the project are still valid.*
- *Provide LPA final oversight cost estimate.*

13.1.4.4 Project Schedule

Create and Submit a Project Schedule		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*	*N/A*

** A formal project schedule is not required; however, a list of significant milestones and approximate dates may be required as determined by the VDOT ACE.*

Within 15 business days after the preconstruction conference, the LPA will provide a project or earnings schedule to the VDOT ACE covering the full duration of the project. The project schedule must include those activities that VDOT has indicated as a critical point at which VDOT must either inspect the project or be on site during the activity

Periodically, throughout the project, the schedule must be updated and submitted to the VDOT ACE to ensure major milestones are accurate. VDOT recommends that these updates take place a minimum of every six weeks of construction.

As necessary, the working schedule may include diagrams, bar charts, and a tabular schedule report showing start and finish dates. A written narrative of the working schedule can be submitted which describes each element shown. The narrative should list the Contractor's work days per week, holidays, number of shifts per day, and number of hours per shift.

VDOT strongly recommends that a progress schedule also indicate the amount of work to be performed within given time periods as percentages of the contract dollar value. VDOT uses a C-13 form, which is available to LPAs, to document this information. The progress schedule provides a means of measuring the Contractor's progress throughout the life of the project. Early identification of deficient progress is critical to preventing or mitigating delays in project completion. The LPA should be alert to detect delays or lack of progress on the project. Such delays should be brought to the attention of the Contractor and the Construction Manager. This will help prevent the Contractor's progress from becoming deficient.

The LPA and the VDOT CPM must, together, identify critical milestone/activities when VDOT staff will be on-site to observe construction activities and agree as to notification requirements to ensure this occurs.

VDOT and LPAs have greater success during construction when a formal plan of communication is prepared. A template "Guidelines for Construction Activities Interaction" is provided on-line and can be used to document construction responsibilities during a LPA Administered project. While not necessary for small short-duration projects, the LPA and VDOT ACE should consider the completion of this document for complicated or long-term projects.

13.1.5 Construction Activities

13.1.5.1 Project Documentation / Inspection

Maintain a Daily Diary		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*X*	*N/A*

Accurate documentation of daily activities including quantity and types of materials on-hand and placed, materials acceptance results, equipment calibration, weight tickets, conditions delaying project progress, activities of DBE firms, etc. is critical to construction contract administration and is especially important when considering contract changes and dispute or claims resolution.

A daily diary of project activities must be kept for all federal-aid projects or projects to be maintained by VDOT.

An LPA may use any project file documentation system it deems appropriate, including the use of construction management software, as long as an appropriate level of documentation is maintained. Appendix D of this chapter contains typical project documentation that is expected to be kept. The VDOT CPM may, at his discretion, review this information over the course of the project and will notify the LPA if any mandatory data is missing from the documentation. Failure to record this information may result in the reduction of federal participation for any claims or the inability for VDOT to support the LPA during other project-related disputes. Missing documentation which impacts project quality assurance will also affect the ability to provide full reimbursement for those items.

For Recovery Act Projects, the LPA must also complete the Recovery Act Quality Assurance Checklist, and submit it to the ACE.

For non federal-aid projects which will be maintained by the LPA, project documentation supporting all payments for materials, prices adjustments impacting reimbursements, and claims documentation must be kept on file and available for inspection for a minimum of three years after financial closure of the project. VDOT utilizes and can provide various record keeping documents to support the LPA, to include an electronic materials notebook.

An LPA must be willing to provide, or provide access to, project documentation as requested by VDOT or FHWA.

VDOT Responsibilities:

- *For LPAs with limited experience or those requesting support, the CPM will provide the LPA with assistance in establishing a Project File.*
- *Periodically, the CPM will inspect project diaries and provide recommendations for improvement.*
- *Review the Recovery Act Quality Assurance Checklist for completeness and accuracy, as necessary for Recovery Act projects.*

13.1.5.2 Qualifications of On-site Personnel

The LPA is responsible for ensuring that on-site inspection staff is adequately qualified to perform duties assigned. The LPA is also responsible to ensure that other project personnel are appropriately trained, and where applicable, certified to perform duties as identified in the contract documents, referenced specifications, and federal and state regulations. This includes, but is not limited to, those related to work zone safety, traffic management, occupational health and safety, erosion and sedimentation control, and environmental protection. Unless otherwise stated in this Manual or in VDOT's Land-Use Permit Manual, those qualifications will not be reviewed by VDOT.

VDOT's Construction and Inspector's Manuals provide guidance related to many of the necessary qualifications of project inspectors and should be used as a reference by the LPA and their contractors.

The Project's Responsible Charge Engineer (RCE) must be a professional engineer licensed to practice in the State of Virginia. The RCE may or may not be directly employed by the LPA; however, if the LPA elects to use a consultant for professional engineering services, a full time local government employee must be responsible for the project.

13.1.5.3 Material Acceptance and Assurance Sampling and Testing

Materials Acceptance Must Meet VDOT Standards		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
*X**	*X*	*N/A*

**For non-NHS, Federal-aid, LPA-maintained Projects, the LPA may submit an alternative Materials Acceptance Quality Assurance Plan for review and approval by VDOT.*

Materials Acceptance and Assurance Sampling and Testing is required in accordance with the contract documents, VDOT Materials Manual of Instructions, and Chapter 13 of this manual, with contract requirements taking precedence, where they are more stringent. For federal-aid projects off the NHS or for projects that will be maintained by VDOT, the LPA may submit a materials quality assurance plan (QAP) for review and approval, prior to construction. Approval must be provided before implementation of the QAP. To prevent project delays, it is recommended that any alternative QAPs be submitted prior to project advertisement.

VDOT understands that LPAs maintaining their own road system have a vested interest in ensuring the quality of construction for their projects and VDOT can perform an

advisory role to the LPAs regarding materials quality assurance on these non federal-aid projects. Materials acceptance and assurance sampling and testing for projects that do not include federal-aid and will be maintained by the LPA will be performed in accordance with the contract documents, which will conform to the LPA's quality assurance plans. However, projects located on Primary routes (maintained by VDOT) or on the NHS will be required to meet all VDOT Materials Assurance requirements when receiving federal or state funding support, regardless of ownership or maintenance responsibilities of the project.

Materials on federal-aid projects or projects that will be maintained by VDOT are required to be from VDOT's pre-approved materials list of products and/or sources.

Materials Technician and Inspector Qualifications

Inspectors on federal-aid projects and projects to be maintained by VDOT are required to be certified by VDOT or another VDOT-recognized and approved highway materials certification program (such as the Mid Atlantic Regional Technician Certification Program) in Asphalt Field, Concrete Field, Soils and Aggregate Compaction, Pavement Marking and Nuclear Safety. Inspection staff for quality assurance sampling and testing may be directly employed by the LPA or may be employed by a construction engineering inspection firm contracted by the LPA.

LPAs maintaining their own road system have a vested interest in ensuring the quality of construction for their projects and VDOT strongly recommends that only certified technicians be used on their non federal-aid projects. However, regardless of funding type, certified technicians will be required when these projects are on a Primary Route (maintained by VDOT) or on the National Highway System.

13.1.5.4 Project Monitoring and Oversight

For federal-aid projects, VDOT is not relieved of oversight responsibility for the project's construction, even when administered by an LPA on roads maintained by the LPA.

The LPA should refer to the VDOT Construction and Inspectors Manuals for guidance regarding project inspection and monitoring. Both documents have been prepared to inform and assist VDOT construction inspection personnel. The Construction Manual provides detailed guidance for the specifications contained in the VDOT Road and Bridge Specifications. The Inspectors Manual contains a series of tables which identify the primary inspection duties for major categories of work. Reasonable conformance with these manuals is required for federal-aid projects and any project to be maintained by VDOT. Where substantive deviation with these manuals is expected, the LPA must coordinate with the ACE prior to those activities. Where project situations preclude advanced notice, the LPA must document the extent of the deviation and how quality assurance was maintained.

For projects which will be maintained by VDOT after completion, VDOT has responsibility to ensure that the project is constructed in a reasonable conformance with contract requirements and specifications. As such, VDOT will perform oversight inspections for these projects. The frequency of these inspections will be in general accordance with Appendix B of this Chapter.

VDOT Responsibilities:

- *The VDOT Construction Project Monitor will provide oversight inspections of federal-aid and VDOT maintained projects in accordance with Appendix E of this chapter. VDOT's responsibility is to ensure reasonable conformance with contract provisions.*
- *Appendix E provides a list of construction activities and specific review*

items that should, typically, be included during oversight evaluation. It is not expected that every item, or even every construction activity, be reviewed each time an oversight evaluation is made. Instead, the reviewer should focus each evaluation on the specific needs during that phase of work or on questions the Construction Manager may have or on issues that have been brought up during progress meetings. Some items will not be applicable unless the reviewer is on-site during those events.

- *If the Construction Project Monitor designee determines that it is in VDOT's interest to be on-site during specific events, early coordination between VDOT and the Locality is critical and those discussions need to be made early in the construction process, preferably before construction begins.*
- *The Construction Project Monitor designees will coordinate with other VDOT staff having oversight responsibilities to ensure site visits are coordinated as much as possible in order to minimize impact on construction activities.*

*****No VDOT employee shall direct the actions of an LPA contractor, except in the case of immediate danger to life or health****. All requests or direction shall be made to the LPA-designated project manager. Where the project engineer is a contract employee or when the on-site project inspector in charge is a contract employee, VDOT may discuss the issue(s) with that contract employee, make them aware of the recommendation or directives that will be provided to the LPA-designated project manager.*

13.1.5.5 Field Modification to Approved Design

The LPA must ensure that project modifications do not require additional NEPA evaluation for federal-aid projects. Any additional work outside the originally identified project "footprint" would require additional evaluation. Additional project needs for any federal-aid project must be coordinated with VDOT staff prior to issuing a notice to proceed to the contractor.

Modifications to the engineering design may require a design exception or, at a minimum, review and approval by the Engineer of Record. Any design modification of this nature must be submitted to the VDOT Construction Project Monitor prior to finalization.

A work order may also be required. Further discussion on work orders is provided in Chapter 13.

13.1.5.6 Project Reimbursement Requests

The LPA must submit a certification along with each monthly payment voucher to the CPM. The LPA's Project Manager must submit each reimbursement request with a statement certifying, as applicable, the following:

- The voucher is accurate and the payment request for satisfactorily completed work.
- All Civil Rights, Equal Opportunity, and DBE-related documentation, as applicable to the project, has been submitted.
- All applicable environmental controls are in place and are being maintained by the contractor.
- All materials used on the project during the pay period meet applicable FHWA and VDOT requirements, as applicable to federal aid and VDOT maintained projects.

- A breakdown of current charges for material-on-hand, any price adjustment, fuel adjustment, and change order.
- An updated project schedule (when a schedule is contractually required) showing the items completed during the pay period.

Recommended certification language is provided in Appendix F. Additional information regarding the processing and reimbursement of such requests will be performed in accordance with Chapter 19 of this Manual.

VDOT Responsibilities:

- *VDOT Construction Project Monitor will review voucher, provide reasonable assurance that activities have been performed or materials are on-site and forward to Residency or District business / accounting staff for processing.*
- *Business / accounting staff will complete the FD-AP-01 and forward to Central Office Fiscal Division for processing.*
- *All reimbursement requests must be processed within 30 calendar days*

Final Payment Voucher

After completion of the final inspection with the contractor and, as necessary, VDOT staff, and the necessary corrections have been completed, the LPA will begin the process to provide VDOT with a final invoice and financially close out the project with VDOT.

The LPA will ensure that the final voucher/estimate has been examined and verified by a qualified independent reviewer or auditor. The reviewer or auditor must be experienced with preparing final construction payments/vouchers and must not be affiliated with the project. She/he may or may not be employed by the locality. A locality may wish to have VDOT perform the final voucher review/verification. In this

case, billing and project charge arrangements should be made and the Project Administration Agreement should be amended.

The review should include examination of all payments to ensure that any overpayments are identified and reduced from final payment. Additional information on project close-out procedures is provided in Chapter 14, of this Manual. This is to ensure that any overpayments are reduced from final payment.

VDOT's Post-Construction Manual can be used as a resource guidance regarding preparation of final invoices. Unless otherwise identified in this manual, LPAs are not required to use the VDOT forms identified in the Post-Construction Manual.

13.1.5.7 Key Submittals / Requirements

Task/Submittal / File Documentation	***Locality Responsibility***	***VDOT Construction Project Monitor Responsibility***	***Submittal Timing / Recordkeeping Requirements***
C-25 or equivalent	Submit Form to VDOT ACE	Review and coordinate review with Materials section	Immediately after Pre-Construction Meeting; prior to construction activities
Project / Earnings Schedule	Include Major Milestones; ensure plans to coordinate with VDOT ACE have been made	Concur; ensure milestones which necessitate VDOT staff on-site are identified	Within 15 days after Pre-construction Meeting
Civil Rights Forms	Ensure requirements are met	District CRO will make periodic site visits to ensure compliance	Within 15 days after Pre-Construction Meeting
Dashboard Update	Include project in VDOT's Dashboard prior to initial reimbursement request	At initial reimbursement request, ensure LPA has include project in Dashboard	Project Placed in Dashboard prior to construction and updated every 90 days.
PCES	Update		PCES must be updated every 90 days throughout construction
Project Diary	Ensure daily diary is maintained	Review to ensure adequate / provide support as necessary	Submitted at end of Project for VDOT Maintained Project; Kept on-file for three years for projects maintained by LPA
Recovery Act Quality Assurance Checklist	Complete and submit form to VDOT	Review for accuracy and completeness	Submit at end of project as applicable for Recovery Act projects.
Reimbursement Requests	Ensure all items requested are completed and documented; provide appropriate certification language	Review to ensure only eligible items are included	No more than monthly;
Final Project Inspection	Invite VDOT to final punchlist inspection and correct any deficiencies noted	Attend final punchlist inspection and identify major deficiencies;	Prior to final acceptance and final reimbursement payment

13.1.5.8 References

- 23 CFR 635 (non-NHS) requirements)
- 23 CFR 637 (NHS requirements)
- FHWA Contract Administration Core Curriculum Participants Manual and Reference Guide
- FHWA Construction Program Management and Inspection Guide http://www.fhwa.dot.gov/construction/cpmi04tc.cfm
- VDOT Construction Manual
- VDOT Inspection Manual
- VDOT Construction Oversight Guide for LAPs
- VDOT Post Construction Manual

Appendix 13.1-A

Surety Rider Example

DUAL OBLIGEE RIDER

To be attached to and form a part of contract bond number_____ issued by

the _____on behalf of

_____

in the amount of_____

Dollars ($ _____) and dated _____

in favor of _____

_____

in consideration of the sum of One Dollar ($1.00), and other good and valuable consideration receipt of which is hereby acknowledged, the Undersigned hereby agree as follows:

VDOT is hereby added to said surety bond as an additional obligee for the purposes of guaranteeing any work associated with the referenced contract performed within VDOT's right of way under the terms of the land use permit for that purpose.

The conditions of this obligation are such that if the said Principal shall in all respects comply with the terms and conditions of said permit(s), and fully meet and perform obligations thereunder in accordance with requirements for permits as set forth in the Land Use Permit Manual in effect at time of permit issuance, and shall satisfactorily complete the work permitted, then this obligation to the Department would be void, otherwise to be and remain in full force and virtue.

The surety bond securing performance on the specified permit may be canceled only upon satisfactory completion of the specified permit, as determined by the VDOT representative.

The surety's obligation to the Department shall be no greater than its obligation to the county, city, or town administering the project, and the amount of the bond is the limit of the surety's obligation to either or both obligees.

Appendix 13.1 – B

Project Oversight Risk Assessment Scoring

The VDOT Project Coordinator may have evaluated and assigned an oversight score for the project during or before project scoping. That score provides an oversight level of Low, Moderate, or High, which may also be applied during construction. However, the Construction Project Monitor can elect to re-evaluate the initial score and assign a new one prior to construction.

The evaluation table is also contained in Appendix 9-C, however this appendix provides detailed construction-specific discussion as it relates to oversight expectations. The oversight levels are based on the potential adverse impact of contract noncompliance and the likelihood that noncompliance may occur. The following table provides a summary of the oversight levels:

Oversight Level	**Impact/Probability**
High (H)	Significant impact on infrastructure due to non-compliance - Significant effects to quality of construction, cost, & schedule; High probability of non-compliance
Moderate (M)	Moderate impact on infrastructure due to non-compliance - Moderate effects to quality of construction, cost, & schedule; Moderate probability of non-compliance
Low (L)	Minimal impact on infrastructure due to non-compliance - Minimal effects to quality of construction, cost, & schedule; Low probability of non-compliance

Oversight levels will be determined by identifying specific elements applicable to the project. Several elements will be considered more important, and thereby "weighted," more heavily than others. Generally, a Federal Oversight project or a project on the National Highway System will require more oversight than one that is state funded. The Department also has less risk on projects that will be maintained by the locality and those projects are weighted lower than a project where VDOT will be maintaining the final product. The amount of experience a locality has in administrating contracts is another factor that will be considered. These elements, and corresponding weighted values, are depicted on the following chart:

Element	Value (factor)	Check Elements That Apply	Total Factor per Element
Federal Oversight	20		
National Highway System	20		
Funding			
Federal Funded (non-Enhancement)	15		
State Funded	10		
Federal Enhancement (Impacts R/W)	7		
Federal Enhancement (Off R/W)	1		
Completed Project Maintenance			
State Maintained Project	10		
Locality Maintained Project	2		
Project Category *			
Category I	2		
Category II	5		
Category III, IV, V	10		
Locality Experience Administering Project			
Low Level	15		
Intermediate Level	10		
High Level	5		
Factor Total			

* See Appendix B for project category description

To obtain the project's score, each applicable element is identified and the corresponding value is transferred to the far right column. All values placed in the far right column are totaled to provide a final score or "Factor Total." The level of oversight is established in accordance with the range on the following chart.

Level of Oversight	Range of Factor Total
High (H)	> 45
Moderate (M)	25-55
Low (L)	< 35

This analysis is a basic attempt to achieve the level of oversight needed. On occasion oversight levels may overlap. When the factor total falls within 2 ranges, the oversight

level should be established using sound engineering and professional judgment. This could be based upon several considerations, such as, unusually complicated features associated with the project construction; highly sensitive environmental or socio-economic issues, the Project Manager's experience working on similar transportation projects; or, after the contract is awarded, the contractor's experience with similar projects.

Enhancement projects off the highway rights-of-way are unique and pose a lower level of risk to VDOT. Most likely, these projects will fall in the low range of oversight.

At anytime throughout the duration of the project, the VDOT Construction Engineer may increase or decrease the frequency or intensity of VDOT's oversight, based on the contractor's job performance and the result of previous VDOT compliance reviews. If there is evidence of deficiencies in the inspection, materials testing, documentation, and/or environmental compliance during construction, the level of oversight may be increased. Conversely, if the District gains a higher level of confidence in the locality's project administration, the level of oversight may be reduced. Changes in the oversight level during construction should be well documented and communicated to the Locality.

Project Evaluation Frequency

The frequency of District reviews should be, generally, in accordance to the following chart. A final review is at the completion of construction.

Oversight Level	**Frequency of District Reviews**
High (H)	Bi-weekly to Monthly
Moderate (M)	Monthly to Quarterly
Low (L)	Randomly; infrequently

The frequency of oversight evaluations (or "site visits") will depend on many different factors, including duration of construction and the complexity of the construction phases. A good general rule for long-duration projects is to attend the monthly progress meeting and perform a short site visit that same day. Special issues brought up during the progress meeting can be evaluated during the site visit. Not every facet of construction oversight must be reviewed during every evaluation. The oversight reviewer needs to use his/her professional judgment to determine what is most important and what poses the highest potential risk during that particular construction

phase. The Locality Project Manager and/or the Construction Manager should be made aware that VDOT's oversight reviews are also intended to provide assistance, where necessary. In that manner, they may help direct you (the oversight reviewer) to the areas in need of most attention.

As previously mentioned, at anytime throughout the duration of the project, the VDOT Construction Engineer may increase or decrease the frequency or intensity of VDOT's oversight based on the contractor's job performance and the result of previous VDOT oversight evaluations. If there is evidence of deficiencies in the inspection, materials testing, documentation, and Environmental compliance during construction, the level of oversight should be increased. Also, if the District experiences a higher level of confidence in the locality's inspection/documentation, the level of oversight may be reduced. Again, any changes in the oversight level during construction should be well documented.

Appendix 13.1 – C

Pre-Construction Meeting; Topics of Discussion

Pre-Construction Meeting; Topics of Discussion

Among the subjects to be discussed at the meeting are the following:

1. Contractor's proposed sequence of construction, operating schedules, computation of workday charges, time schedule, and completion date requirements.

2. Work to be sublet, stipulations to be included in the subcontract agreements, insofar as progress of the job and work to be done, Engineer-Contractor relations and responsibility towards subcontractors, authorized representatives.

3. Labor provisions, necessary posters, Engineer's inspection, and investigating procedures with regard to labor requirements.

4. Legal relations and responsibilities; cooperation with utility owners, the public, and other Contractors; licenses and permits in connection with execution of the work, local ordinances.

5. Special requirements and unusual conditions, conflicts and problems anticipated clarification of construction details and Specification requirements, procedures for assessment of time.

6. Coordination and the scheduling of work between the Contractor and the various utility companies.

7. Inspection procedures, notification to the Engineer of material orders, furnishing samples and the time and place of testing and accepting materials, field office, storage and use of materials.

8. Haul road requirements; location and scheduling of bypass construction, crossroad closures and access facilities; general responsibilities with regard to traffic convenience.

9. Employee and public safety, sanitary provisions.

10. Appointment of the project safety officer(s) for administration of the Construction zone safety requirements and procedures.

11. Delegation of authority by the Contractor and the Engineer, lines of communication, equipment and personnel.

12. A list of suppliers should be furnished the Engineer indicating where the Contractor proposes to obtain materials for the project.

13. Pertinent outlines of the Federal Labor Compliance Regulations.

14. Civil Rights and DBE requirements. Review of Form 1273 Requirements for federal-aid

15. Review of requirements for Contractor's notice of intent to file a claim.

16. Environmental concerns to include applicable permits, compliance with environmental laws and Contractor’s responsibilities.

17. VDOT and, where applicable, FHWA oversight inspections and the process of identifying and reconciling inspection findings, to specifically include a communications plan.

18. Contract Requirements varying from the VDOT R&B Specifications.

19. Materials Sources and submittal of C-25 to VDOT

20. Off-site Materials Testing / Laboratory Testing, Coordination with VDOT

21. Review of emergency procedures.

22. Any additional federal-aid requirements.

Appendix 13.1 – D

Typical Project Documentation

Project Record Filing System - Locally Administered Federal-aid Projects

1. Project Personnel
2. Correspondence
    a. Contractor
    b. General
3. Weekly record of working days (if contract time is specified).
4. Materials Data:
5. Engineer's Daily Reports
6. Contract Item Pay Quantity Documents
7. Contract Change Orders
8. Extra Work Reports
9. Progress Pay Estimates and Status of Funds
10. Labor Compliance and EEO records
11. Contractor's Payrolls
12. Final Report
13. DBE Records (need a list or reference to a list in CR Chapter)

Appendix 13.1 – E

Construction Oversight / Field Reviews / Evaluations

The following includes a list of construction activities and specific review items, taken from the Inspection Manual that should, typically, be included during oversight evaluation. It is not expected that every item, or even every construction activity, be reviewed each time an oversight evaluation is made. Instead, the reviewer should focus each evaluation on the specific needs during that phase of work or on questions the ACE designee may have or on issues that have been brought up during progress meetings. Some items will not be applicable unless the reviewer is on-site during those events. If the VDOT ACE designee determines that it is in VDOT's interest to be on-site during specific events, early coordination between VDOT and the Locality is critical and those discussions need to be made early in the construction process, preferably before construction begins.

Project Documentation

Spot check project documentation to see that the records are properly maintained in accordance with this Manual, contract documents, or another pre-approved process.

Materials

Chapter 13.2 provides a description of materials requirements for locally administered projects. While materials acceptance methods and processes outlined in the Materials Manual of Instructions are required for federal aid projects and any project to be maintained by VDOT, the locality may submit alternative methods and processes for approval.

With the submission of each project reimbursement request to the Department, the locality is to provide a certification that all of the Material used on the project during the pay period meets applicable contract requirements and that all required materials documentation is in place.

The VDOT Project Monitor will conduct periodic reviews of the locality's material acceptance compliance for the contract work, as necessary to review compliance with the contract documents. These reviews may include confirmation of materials inspectors' certifications, confirmation of number and frequency of materials test performed, review of materials' storage and handling procedures, verification that the materials used are from an approved source, etc, in accordance with the requirements of this Chapter 13.2 of this Manual. The Department's primary focus during its review will be on verifying that the locality is maintaining adequate documentation of material acceptance and demonstrates that they are complying with the project's contract

requirements. These reviews will be conducted in accordance with the appropriate project oversight level throughout the duration of the project.

For federal-aid projects and any project that will be maintained by VDOT, the Department requires localities and their contractors to use materials available on VDOT pre-approved list or which are accepted in accordance with accepted practices. Should the locality wish to use materials not on an approved list, the Department will assist the locality to obtain approval for the material. The Department reserves the right to apply charges to the project for such approval, when those additional activities will not result in an additional benefit to the Department (i.e. results in a new, approved material that may be utilized by the Department in the future).

The District Construction Engineer, in consultation with the District Materials Engineer and the Locality, should identify Locality and VDOT roles and responsibilities for key activities associated with the materials certification program. On certain occasions it may be more time and cost effective to use VDOT personnel or VDOT contractors to perform some functions. This decision should be based on mutual needs, available resources, the project risk assessment, and cost or time benefits derived from such an arrangement. Such the arrangements should be documented within the Project Administration Agreement or within a Project Administration Agreement Amendment.

Roadway Inspections Checklist

Clearing and Grubbing

- Visually review for signs that clearing was, or is being, performed properly;
- Look for obvious signs that the clearing took place outside the right-of-way or construction easements;
- Review documentations that the cleared material is disposed of in accordance with the specifications (i.e. disposal site approval documentation).

Drainage

- Review to that there is documentation indicating that the subgrade was approved prior to the placement of bedding material;
- Review documentation that the material for the construction of pipe, end sections, spill-outs, reinforcing steel, grates, frames, bedding material, drainage structures,

endwalls, and other incidental items are on VDOT's approved products lists, have been tested or certified, and / or from an approved source;

- Review for sufficient compaction reports on various drainage structures;
- Visually review installed structures for obvious deficiencies.

Earthwork

- Review site work for indications that proper environmental controls are in place;
- Review that minor structure excavation has been measured, documented, and approved;
- Review for documentation indicating that the roadway earthwork has been inspected for conformity with the specified tolerances for line, grade, typical section, and cross section
- Review for documentation that the density testing requirements and frequencies are being met.
- Review for documentation that indicates that the depth of fill embankment layers as per specifications
- Review the disturbed areas to ensure seeding in accordance to specification
- Review undercut of unsuitable material documentation that the approval, excavation, and backfill is performed in accordance with contract documents
- Review for evidence that temporary seeding is provided as soon as practical in accordance with the contract documents.

Base Course

- Check that the material is placed on a prepared and approved subgrade (if present during placement), and that an approved mechanical spreader is used when practical.
- Check for documentation that the depth of the material has been placed in accordance with the contract documents;
- Confirm that the minimum density testing requirements and frequencies are being met.

Asphalt Concrete Pavement

- Check for documentation that shows that the control strip and test section were constructed for each lift of each course and that the required number of tests were taken; check that cores/plugs were obtained and tested to verify an acceptable control strip
- Check for records that density testing requirements and frequencies are being met;
- Verify that depth tests (cores) were performed and that they meet plan requirements
- Visually inspect for surface irregularities.

Structural Inspection

- VDOT and the Locality Project Manager should coordinate prior to construction to determine the need for VDOT staff to be on-site during activities associated with the construction of major structures (i.e. major pours).
- Check pile driving records –look for documentation on load test piles; check documentation that piles driven to the required bearing, including center of gravity check
- Review documentation indicating that footings, piers, abutments, and superstructure, etc. had been inspected prior to placement of concrete
- Check visual appearance of completed concrete pours or structures - look for patterns that might indicate a defective pour or obvious signs of irregularities;
- Review concrete test reports to ascertain if adequate frequency and results have been met.
- If on site during concrete pour, perform a cursory check for proper placement of concrete and/or reinforcing steel;

Miscellaneous

Paving Markings: Visual review that final placement is in accordance with contract requirements.

Signalization/Signs: Visually review final installation for proper placement per contract requirements.

APPENDIX 13.1 - F

Recommended Language/Format to be submitted with LPA requests for reimbursement

MEMORANDUM

TO: VDOT Construction Project Coordinator / Area Construction Engineer

FROM: Local Government Contact; Project Manager; or Responsible Charge Engineer

RE: Reimbursement Request

In accordance with the requirements of the Local Public Agency Manual and federal and state requirements, and contract requirements for (Project # _____, UPC _____, Project Name) the following documentation is submitted:

- *(The Locality) hereby certifies that all Civil Rights, Equal Opportunity, and DBE documentation has been submitted by the contractor (a completed checklist is attached);*
- *(The Locality) hereby certifies that all applicable Environmental Controls are in place and are being maintained by the contractor;*
- *(The Locality) hereby certifies that all materials used on the project during the pay period meet applicable FHWA(where applicable) and VDOT requirements;*
- *(The Locality) hereby certifies that that the invoice is accurate and that the items being requested for payment have been installed on the project;*
- *An updated progress schedule (where required by the contract documents) showing the items completed during the pay period;*
- *Documentation submitted by the contractor when he requested payment from the Locality;*
- *A breakdown of current charges relative to materials on-hand, any price adjustments, and change orders, where applicable.*

Questions regarding this correspondence should be directed to (Local Contact) at (phone number).

CHAPTER 13.2 – MATERIALS QUALITY ASSURANCE

SECTION / TOPIC

13.2.1 Introduction

13.2.1.1 Applicability

13.2.2 Pre-Construction Meeting

13.2.3 Materials Approvals

13.2.4 Source / Plant Inspections

13.2.5 Materials Acceptance / Assurance Technicians

13.2.6 Qualified Laboratories

13.2.7 Materials Notebook

13.2.8 Testing

13.2.9 Non-Statistical Acceptance of Small Quantities of Materials

13.2.10 Records

13.2.11 Independent Assurance Sampling and Testing

13.2.12 Materials Certification

13.2.13 Miscellaneous References

APPENDICES

13.2-A DEFINITIONS

13.2-B SUMMARY OF REQUIREMENTS AND REFERENCES

13.2-C SOURCE OF MATERIALS FORM; C-25

13.2-D LIST OF PRODUCTS REQUIRING LT#S

13.2-E INDEPENDENT ASSURANCE TOLERANCES

13.2-F MATERIALS CERTIFICATIONS STATEMENT

13.2-G MATERIALS TESTING METHODS AND FREQUENCIES

13.2.1 Introduction

The topics addressed in this chapter include material certifications for inspectors/technicians, laboratory qualifications, Quality Assurance (QA) / Quality Control (QC) requirements, Independent Assurance (IA) requirements for NHS projects, Materials Notebook usage, and materials certification (TL -131).

Materials testing and documentation is the responsibility of the LPA through its Project Manager (PM) and the Project Construction Engineer (PCE). Required inspections and tests shall comply with this guide, contract requirements, approved plans, VDOT Road and Bridge Specifications, VDOT Materials Division Manual of Instructions (MOI), as necessary.

13.2.1.1 Applicability

- The requirements of this chapter apply to VDOT-funded projects which will be maintained by VDOT and any federal-aid project.
- Federal-aid projects on the NHS may have additional requirements not specifically identified in this Manual and additional requirements will be identified during preliminary planning and the development of the Project Administration Agreement.
- Provisions of this Chapter are encouraged for non federal-aid projects which will be maintained by the LPA.

13.2.3 Material Approvals

Materials Acceptance Must Meet VDOT Standards		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*X*	*N/A*

For federal-aid projects or projects to be maintained by VDOT, within seven (7) business days after the preconstruction conference, the LPA is required to submit documentation of the source of materials, including the source of each material to be incorporated into the project and the acceptance method that will be used for the material. A VDOT Form C-25 may be used to meet this requirement, Acceptance methods are found in Appendix G to this Chapter, the VDOT Road and Bridge Specifications, and the VDOT Materials Division Manual of Instructions.

For federal-aid projects or projects to be maintained by VDOT, project materials and materials sources must be pre-approved by VDOT. ***Where a product or source is not on a VDOT approved products list or has not been previously approved, the LPA may submit a request for approval to the ACE, so that it may be evaluated and approved by VDOT.*** Manufacturer certification that materials meet specifications may also be accepted for some pre-manufactured materials. The LPA should recognize that approvals may take a significant amount of time depending on the product, material source, and availability of VDOT staff; therefore, use of pre-approved materials and sources is highly encouraged. Where this is not possible, early coordination and accounting for VDOT evaluation time in the project schedule is paramount.

VDOT Responsibilities:

- *The CPM, with the Materials QA section support will review the C-25 (or equivalent) to ensure proper testing of VDOT approved sources have been identified and that proper acceptance methods are listed. Where discrepancies are found, the CPM will immediately contact the*

LPA to discuss corrective actions.

- *Where the LPA has requested the use of a product which is not on a VDOT approved product list, the CPM will coordinate with the appropriate staff to evaluate the product in accordance with established product evaluation methods. The LPA should submit all necessary documentation to aid in the product's evaluation.*

13.2.4 Source / Plant Inspections

Source inspection is acceptance testing of manufactured and/or prefabricated materials at locations other than the job site. Materials requiring source inspection will be identified on the C-25. **The LPA must identify if they are requesting that VDOT perform source inspections for those materials.**

Where possible, VDOT will incorporate plant inspections within their normal plant approval inspection schedule; these inspections are not charged directly to the project budget. However, when project requirements necessitate additional plant inspections, resources necessary to perform those inspections may be charged to the project budget. VDOT will provide the LPA with an estimated cost after submittal of the C-25 or equivalent.

The inspection of project-specific fabricated items will typically be accomplished by a consultant to the LPA or the VDOT Materials QA section staff. **The LPA must submit the inspectors' qualifications along with the C-25 or equivalent to the CPM for review and approval.** The LPA may request that VDOT perform these inspections. The LPA must make this request when submitting their C-25 or equivalent and VDOT will provide a cost estimate to perform the inspection. Where a request of this nature is made, the LPA must provide the name of the intended fabricator and provide two copies of the approved shop drawings.

Common highway construction items and materials which are inspected at the source include, but are not limited, to pre-stressed concrete structural elements (beams, girders

and piles), metal traffic signal and light poles and arms, structural steel elements (beams and girders), precast concrete structures, pipe (concrete, steel, aluminum and high density polyethylene) for culverts, storm drains and underdrains, asphalt concrete mixtures, hydraulic concrete mixtures, aggregate (dense and open graded mixes), pavement marking materials, road delineators, sign sheeting materials and structural steel coatings.

VDOT Responsibilities

- *The VDOT Construction Project Monitor will submit any LPA source inspector qualifications to the appropriate staff in the Materials QA section for review and approval.*
- *The VDOT Construction Project Monitor will submit any LPA requests for VDOT to perform source testing to the Materials QA section for review and approval.*
- *Approvals and/or comments associated with inspector qualifications, VDOT source testing along with associated a cost estimate to perform inspection(s) will be prepared and will be submitted to the LPA, within seven (7) business days of the initial LPA request.*

13.2.5 Materials Acceptance/Assurance Technicians

Materials technicians are staff employed by or contracted by the LPA who perform on-site materials testing including, but not limited to, soil density, moisture, asphalt density, air content of concrete, slump, and other required materials field tests. Quality control technicians (acceptance testing) may be employed by the contractor's production forces but any quality assurance technicians must be a third party unaffiliated with the contractor. These are typically employed by a separate Construction Engineering Inspection (CEI) consultant, or may be employed by the LPA. Materials testing technicians must be qualified in accordance with this Chapter of this manual.

Prior to beginning work, the LPA or the contractor is required to prepare a list of all materials certification requirements necessary for the duration of the project. At this point individual technicians are not required to be identified; however, the name, qualifications, and work performed for each materials technician that subsequently performs on-site inspections must be recorded in a readily accessible single file and maintained in the project records. This list must be kept in the project files and will be submitted to VDOT when construction is complete. The list must be available for inspection by VDOT or FHWA during construction.

Material testing certifications include, but are not limited to, the following:

- Asphalt concrete, Field
- Hydraulic Cement Concrete, Field
- Soils and aggregate
- Pavement Marking
- Nuclear Safety, and
- others, as identified in the Contract

13.2.6 Qualified Laboratories

All sampling and testing shall be performed by a qualified laboratory that is either:

A. Accredited in the applicable AASHTO procedures by the AASHTO Accreditation Program (AAP): or

B. Complies with the requirements of AASHTO R18 (18th edition) for those tests to be performed and compliance with R18 for those tests not covered by AASHTO Material Reference Laboratory (AMRL): or

C. A laboratory approved by VDOT's Materials Division or other accreditation program meeting the requirements of R18.

Laboratory technicians shall be required to have the appropriate material testing certifications, some of which can be found in 13.2.5. If a VDOT certification program

does not exist, a training and evaluation record from an AASHTO accreditation program can be substituted.

13.2.7 Materials Notebook

When construction begins, a materials notebook, which may be loose-leaf or electronic, must be initiated. Instead of keeping a separate materials notebook, many LPAs keep the materials information as part of the project records. While this is acceptable, a separate materials notebook is strongly recommended as it makes final materials reconciliation much easier. As materials are accepted within the project, the quantity of each material and the method of measurement shall also be documented within the materials notebook. The Materials Notebook is also used to furnish the list of estimated quantities together with the specification designation and test report for each material placed on the project. The notebook must contain a full description and all pertinent information on all materials used in the project, whether covered by test report, inspection report, certification, mill analysis, catalog cuts, quality assurance program, approved list or visual inspection. The "Source of Materials Letter" (C-25 or equivalent) is the reference document for the acceptance method of materials. The information contained in the materials notebook is used to support final certification to VDOT that all project materials were accepted and placed in accordance with applicable contract provisions and specifications and can be used to reconcile materials payments at the end of the project.

The notebook must be kept up-to-date at all times and must be made available to VDOT or FHWA personnel upon request during normal business hours. VDOT's Materials Notebook Resource Document provides additional guidance on the upkeep of a materials notebook.

VDOT uses the TL-142 as the project materials notebook and it is available for the LPA's use. Instructions for completing a Materials Notebook (TL-142) and a notebook template is available from VDOT's on-line forms website, here.

At the end of the project and immediately after final project acceptance, a copy of the completed notebook or shall be provided to VDOT for any project which will be maintained by VDOT. For projects which will be maintained by the LPA, it must be retained in the project records for three years after financial closeout of the project.

VDOT Responsibilities:

- *The VDOT Construction Project Monitor shall assist the LPA with the establishment of a materials notebook, as necessary, depending on the LPA's abilities.*
- *During routine site inspections, the VDOT Construction Project Monitor is expected to periodically inspect the materials notebook to ensure that it meets expectations and adequately documents the quantity and quality of all materials used on the project.*
- *Where deficiencies are noted, the VDOT Construction Project Monitor will provide support to correct the deficiencies and will also notify the LPA in writing of such deficiencies and a timeline for corrective action. Typically, corrective actions are expected within thirty (30) days.*

13.2.8 Testing

It is the LPA's responsibility to verify that field and laboratory sampling and testing are performed using the proper procedures and at frequencies specified in the minimum requirements outlined in the contract specifications, this Chapter Appendix G, the current VDOT Materials Manual of Instructions (MOI), and other documents specified in the Contract or approved by the Department, as may be applicable to the project.

For materials identified in the contract or Road and Bridge Specifications as being subject to acceptance with a price adjustment, standard VDOT price adjustment

procedures may be identified in the contract and may be followed based upon actual field quantities placed and prices stated in contract. This data can be obtained from VDOT, upon request.

Material failures shall be handled in accordance with the contract requirements, the VDOT Road & Bridge Specifications, and the Materials Manual of Instruction.

13.2.9 Non-Statistical Acceptance of Small Quantities of Materials

The Department may elect to allow the LPA to accept small quantities of materials without normal sampling and testing frequencies. The determination to accept materials using this provision rests solely with the Department. Structural Concrete will not be considered under the small quantity definition (MOI Section 207.02).

An item can be accepted as a small quantity if the proposed project quantity for a specific item is less than one sublot or one-half of a sublot for similar materials. Factors that the Department will consider prior to use of small quantity acceptance are:

A. Has the material been previously approved?

B. Is the material certified?

C. Is there a current mix design or reference design?

D. Has it been recently tested with satisfactory results?

E. Is the material structurally significant?

Small quantity acceptance may be accomplished by visual, certification, or other methods. Acceptance of small quantities of materials by these methods must be fully documented. Documentation of materials under these methods must be provided by the PM accepting the material. For visual documentation, an entry should be noted on field records, with a statement as to the basis of acceptance of the material and the

approximate quantity involved. A separate list of items and quantities accepted on visual inspection shall be maintained by the LPA.

13.2.10 Records

Materials Notebook

A materials notebook must be maintained in accordance with this chapter.

Materials Test Reports

For federal-aid projects or any project which will be maintained by VDOT, the LPA (consultant or contractor) shall record individual reports for all materials tests, meeting the requirements of AASHTO R18 (Establishing and implementing a quality management system for construction materials testing laboratories), VDOT's Construction Manual, and the MOI (Chapter 8 Reports and Forms), as applicable.

Sign Inventory

For all projects which will be maintained by VDOT, the LPA shall provide a list of all installed signs and include location, installation date, brand, and any other pertinent information.

Manufacturer's Certifications / Local Tracking Numbers

For products that are not accepted through an acceptance test or are on an approved materials / products list, VDOT accepts the material by manufacturer's certification. The certification is provided as a statement, signed by an officer of the supplier/manufacturer, that the material meets the applicable specifications, special provisions, approved drawings, other job requirements and/or Road and Bridge specifications. The certification is supported and accompanied by specific details such as project number and bid item number. In addition, the copy of the certificate accompanying the material to the project site will include a shipping document, manifest, shipping list, invoice. Appendix G provides a list of materials typically accepted in this manner.

LPAs must inform manufacturers of this requirement and obtain a copy of the materials certification and confirm the certification's compliance with contract requirements upon receipt of the materials/products. The LPA will maintain a copy of all materials certifications on the job site and will become a part of the project records that will be maintained by the LPA or submitted to VDOT, as necessary.

In order to track and verify products that are accepted according to this process, the LPA is required to establish a "Locality Tracking" (LT) number for each materials/product used on a federal aid project or project to be maintained by VDOT. The nomenclature for this tracking system shall be the current year followed by the UPC and LT Number(s) in sequential order (i.e. 08-85914-01), as each material is accepted. This will enable both the Locality and Department to clearly identify and review those items that require a LT Number to ensure the materials meet the requirements specified in the Contract Documents for the particular project(s).

This information is required to be recorded on an inventory list containing the name of the product, the manufacturer, and the supplier. A template Database has been developed by the Department which captures such information for VDOT Administered Projects. This information will become a component of the materials notebook and project records.

13.2.11 Independent Assurance Sampling and Testing (IAST)

In accordance with 23 CFR 637.205, an Independent Assurance Program, to include independent verification testing, is required for any construction project on the NHS. It is also a VDOT requirement for any project on a Primary Route. When an LPA has been authorized to administer a project on the NHS or on a Primary Route, the LPA will

act as VDOT's designated agent and shall be responsible for all IA testing for the project. The LPA will be required to submit a project-specific qualify assurance plan that includes how IAST will be accomplished.

The frequency of independent assurance sampling and testing shall be in accordance with the VDOT Materials Manual of Instructions (MOI), if not otherwise stated in this guide. Appendix G of this chapter provides independent assurance sampling frequencies for many materials. The VDOT Materials Manual of Instruction should also be referenced. Appendix E, identifies testing tolerances which must be met for IA samples. Where tolerances are not met, corrective actions must be taken.

13.2.12 TL–131 Materials Certification

A TL-131(LAP) shall be completed by the LPA for all federal-aid projects and projects to be maintained by VDOT. A copy of a blank TL-131 and a sample of a completed form can be found in Appendix F or by requesting one through the VDOT contact. The TL-131 is used to certify that all materials used on the project have been placed and tested in reasonable accordance with contract specifications. When applicable, it is also used to certify that proper IA testing was completed and that the results of the IA testing compared favorably with the QA/QC testing, when necessary. It also certifies that all test reports have been issued and the location that the reports are stored. The form must include failed materials and corrective actions taken, including pay adjustments. This form must be completed after construction is finished but prior to final inspection and acceptance by VDOT. It will be addressed to the VDOT District Administrator provided to the VDOT ACE who will forward it to the District Materials Engineer for verification/review. For federal-oversight projects, this form is forwarded to the FHWA Division Office.

13.2.13 Miscellaneous References

- VDOT Inspection Manual
- VDOT Construction Manual
- VDOT Materials Manual of Instructions
- VDOT Road and Bridge Specifications

- VDOT Materials Manual of Instructions Chapter I
- VDOT Materials Manual of Instructions Chapter II
- VDOT Materials Manual of Instructions Chapter III
- VDOT Materials Manual of Instructions Chapter IV
- VDOT Materials Manual of Instructions Chapter V
- VDOT Materials Manual of Instructions Chapter VI
- VDOT Materials Manual of Instructions Chapter VIII
- VDOT Materials Manual of Instructions Chapter IX
- http://www.virginiadot.org/business/resources/bu-mat-MD299-07.pdf
- VDOT Forms
- Source of Materials Resource Document
- Materials Notebook Resource Document

Appendix 13.2 – A
Definitions

- Quality Control (QC): Those actions and considerations necessary to assess production and construction processes so as to control the level of quality of the end product. This concept of quality control includes sampling and testing to monitor the process and compliance with material or construction specification limits.

- Quality Assurance (QA): The process of determining the accuracy of sampling and testing results by examining the data and/or providing objective evidence to verify the contractor's quality control sampling and testing when it is used in the acceptance decision.
    - QA testing shall be required if contractor's workforce performs QC testing that is used for Acceptance testing. If Locality or its consultant performs QC/Acceptance testing, QA testing shall not be required.

- Independent Assurance (IA): Activities that are an unbiased and an independent evaluation of all operations, sampling and testing procedures, and equipment used in the acceptance program
    - IA testing shall be conducted by different personnel and different equipment than used for the acceptance testing, acceptance sampling or QA testing.

Appendix 13.2 – B
Summary of Requirements Table & Regulatory References

Task/Submittal File Documentation	*LPA Responsibility*	*VDOT Responsibility*	***Submittal Timing / Recordkeeping Reqts***
• Project QAP – if LPA has developed their own	Submit to VDOT P.C.	Review / Approve with PS&E	Prior to PS&E; typically during final plan review; Maintain with Project Records
• C-25 (Source of Materials)	Prepare / ensure only approved products / sources listed	Review and approve within 7 business days;	At or within ten business days of Preconstruction Meeting
• Request for Source Inspection for manufactured materials at locations other than job site	Provide Document on C-25	Review and approve within 7 business days; provide cost estimate	With the C-25
• Inspector Qualifications for fabricated Items or Request that VDOT perform inspection	Provide Inspector qualifications or details on fabricated items	Review and approve within 7 business days; provide cost estimate	With the C-25
• Materials Notebook	Maintain materials notebook to adequately document all materials on site	Provide assistance as needed to establish; periodically review during inspections	Maintained at Job-site and available for inspection; For LPA's operating their own highway system – materials notebook to be maintained and available for inspection 3 years after financial closure of project; For projects to be operated by VDOT, a copy of the materials notebook must be submitted prior to project acceptance.
• Materials Acceptance Technician Records	Document the names and qualifications of all testing technicians	Review prior to final acceptance	Submitted with Materials Notebook
• TL - 131 (Materials Certification)	Submit final certification of materials used on site	N/A	Prior to project acceptance / after final inspection

Regulatory References

- 23 CFR 635 (non–NHS) Requirements)
- 23 CFR 637 (NHS requirements)

Appendix 13.2 – C

C-25 Example

VIRGINIA DEPARTMENT OF TRANSPORTATION
SOURCE OF MATERIALS

PROJECT NUMBER 0618-002-6018, SR01 CONTRACT ID. NO. CM707BRD39591 SUBMITTED 8/3/08

PROJECT LOCATION 1.27 Mi. E. Rte 795 DISTRICT Culpeper COUNTY Albemarle

PRIME CONTRACTOR with ADDRESS	SUBCONTRACTOR with ADDRESS	NAME and TELEPHONE NO. of CONTACT PERSON
Joe Smith, Inc.		
4321 Expansion Drive		Joe Smith
Richmond, Virginia 23219		804-555-9999

ITEM NO.	SPEC. NO.	ITEM DESCRIPTION	MANUFACTURER and/or SUPPLIER	COMPLETE ADDRESS	VDOT USE INSP/TEST BY:
69105	412 406	Epoxy Coated Reinforced Steel	ABC Coating of North Carolina	501 East 8th Street Salem, VA 24153	MFG. CERT. to Inc. EPOXY CERT.
62031	410	Railing Kansas Corral 27” w/out Curb	Allied Concrete Co.	1000 Harris Street	CULPEPER
69030	412	Concrete Class A3	434-296-7181	Charlottesville,VA 22903	
61677	405	Prestr. Conc. Box Beam 4’ x 2’-3” x (+50’ – 55’)	Eastern Vault Company	P.O. Box 1134 460 Courthouse Road Princeton, WV 24740	SALEM
10123	308 309	Aggr. Base Matl. Ty. I No. 21A	Luck Stone Corporation	P.O. Box 687 Keswick, VA 22902	CULPEPER
	212	Preformed Fibre Expansion Joint Filler “Fibre Expansion Joint No. 320-F”	WR Meadows Corp.	100 Riverside Drive Cartersville, GA 30120	VISUAL
	226	1-1/2”x36”A36 Exterior Beam Anchor Pin ¾”x18”Dowels(Domestic Supplied w/MTR’s)	O’Neal Steel Company	P.O. Box 909 Madison Heights, VA 24572	Accept on manuf. Cert.
	243	EP5 & EP5LV Epoxies (Shipped VDOT Tested / Approved)	Kaufman Products	3811 Curtis Ave. Baltimore, MD 21226	DFI
	218	High Strength Non Shrink Grout “Kaufman Sure Grout” (Shipped with Indt Test Reports)	Kaufman Products	3811 Curtis Ave. Baltimore, MD 21226	MFG. CERT. W / LAB TEST RESULT
13310	505	Guardrail Terminal GR-6 NCHRP 350	Gregory Industries	4100 13th St. SW Canton,OH 44708-0508	APP. LIST #12

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Appendix 13.2 – D

List of Products Requiring LT

LT item	Required Documentation
Anchor Bolts for Str. Steel Plate Girder ASTM A709M	Mill reports, Galv. Cert (Rotational Capacity)
Anchor Bolts, Nuts & Washers	Cert. of Conformance or Mill reports, Galv. Cert
Bend, Branch, Plug or Cap, Reducer	Cert and or approved catalog cuts
Blow-off Valve & Box	Cert and or approved catalog cuts
Bridge Incidentals Fender System (Bolts)	Mill reports
Cable Terminal Enclosure CTE-2 Ty. C	Cert and or approved catalog cuts
Conduit Bored	Cert and or approved catalog cuts
Conduit Supports	Cert, mill report
Control Center CCW-1	Cert and or approved catalog cuts
Deflection/Expansion Fittings	Cert and or approved catalog cuts
DI Sanitary Sewer Pipe	Cert and or approved catalog cuts
DI Water Main	Cert and or approved catalog cuts
Elastomeric Expansion Dam	Independent Test data for rubber, Mill report steel
Expansion Plates	Mill reports
F. R. P. Jacket	Cert, Physical analysis
Fire Hydrant	Cert and or approved catalog cuts
Fixed Bollard, Hinged Bollard	Certification
Gabions	Certification, catalog cuts
Galvanized Pyramid Trash Rack	Cert, mill, galv cert
Galvanized Steel Channels	Cert, mill report, galv cert
Galvanized Swedge Bolt, Nut, Plate Washer	Mill reports, Galv. Cert
Gas Main	Cert and or approved catalog cuts
Gas Main Steel	Cert and or approved catalog cuts
Gas Service Line	Cert and or approved catalog cuts
Handrail	Cert and mill report
HDG Steel Plate	Mill report, Galv cert
Hydro Control Feature	Certification
Impact Attenuator	Certification
Lighting Pole (Bases)	Cert, mill report
Lumi Trak System O/H 1	Cert, Catalog Cuts
Luminaire H.P.S	Cert and or approved catalog cuts
Magnetic Detector Amplifier	Cert and or approved catalog cuts
Magnetic Detector Sensing Element TD-2	Cert and or approved catalog cuts
Metal Pipe Steel Sleeve	Cert, mill report
O/H Sign Structure Anchor Bolts	Cert & Mill (Rotational Capacity Test)
Overlay Sign Panel	Mill report, sheeting certification
Pedestal Pole	Cert & Mill report
Prefabricated Steel: Anchor Rods, Nut and Washers	Cert & Mill (Rotational Capacity Test)
PVC Pipe	Cert and or approved catalog cuts
PVC San. Sewer Pipe	Cert and or approved catalog cuts
PZC18 Sheet Piles	Cert and mill report (Heat numbers on Invoice)
Railing, Aluminum	Cert & mill report
Retaining Wall Gabion Wire	Certification, catalog cuts
Road Edge Delineator Post	Cert and mill report
S.S. Rods with Nuts & Washers	Cert and mill report
Sanitary Service Lateral Connection	Cert and or approved catalog cuts
Sanitary Service Lateral Connection	Cert and or approved catalog cuts
Sanitary Sewer Force Main	Cert and or approved catalog cuts

Scupper & Grate, Downspouts	Certification
Sign Panel	Cert & Mill report, sheeting certification
Signal Poles	Shop Inspected. If not cert and mill report
Silicone Joint Sealant	Cert and analysis
Soil Nailed Wall	Cert to special provisions (Break down of material)
Sole Plates	Cert & mill report
Soundwall Steel Plates	Cert & Mill report
Split Mega-Lugs	Cert and or approved catalog cuts
Spread Spectrum Radio	Cert and approved catalog cuts
Steel Encasement Pipe	Certification
Steel Piles	Cert, mill report (Heat number on Invoice)
Steel Pipe Pile	Cert, mill report (Heat number on Invoice)
Steel Sheet Piling	Cert, mill report (Heat number on Invoice)
Storm Water Management Drainage Str. SWM-1 (Orifice Plate)	Cert , mill report
Structural Steel Paint	Certification with product numbers
Tapping Sleeve and Valve	Cert and or approved catalog cuts
Toggle Bolts	Cert, mill report
Traffic Sign Bridge Mounted Sign Structure	Shop Inspected. If not cert and mill report
Traffic Sign Flashing School Zone	Cert and or approved catalog cuts
Traffic Sign Illum. Street Name	Cert and or approved catalog cuts
Traffic Sign Post USP	Cert, mill report, galv. Cert
Traffic Signalization Antenna Cable	Cert and or approved catalog cuts
Traffic Signalization Antenna Mast	Cert and or approved catalog cuts
Traffic Signalization Camera	Cert and or approved catalog cuts
Traffic Signalization Emergency Preempt Detector Cable	Cert and or approved catalog cuts
Underbridge Lighting System	Cert and or approved catalog cuts
Video Detection Equipment	Cert and or approved catalog cuts
Wall/ H-Pile	Cert, mill report
Water Service Line	Cert and or approved catalog cuts

Appendix 13.2 – E

Independent Assurance Tolerances

Test	IA Comparison Tolerance	Source
Soil/ Aggregate Wet Density using Nuclear gauge in Direct Transmission	CL Soil – 1.91 pcf ML Soil – 2.15 pcf SP Soil – 1.86 pcf	AASHTO T-310 / VTM 10
Soil/Aggregate Density using Sand Cone	2.0 pcf	ASTM D1556 / AASHTO T-217
Soil/Aggregate Moisture using Nuclear gauge (backscatter)	CL Soil – 1.44 pcf ML Soil – 1.63 pcf SP Soil – 2.10 pcf	AASHTO T-310 / VTM 10
Soil/Aggregate Moisture determined by oven dry	14% difference*	ASTM D2216 / AASHTO T-265
One Point Proctor - density	4.5 pcf	AASHTO T-99 Method A
One Point Proctor - moisture	15% difference*	AASHTO T-99 Method A
Concrete Slump	0.82 inch for 1” to 2” slump 1.10 inch for 3” to 4” slump 1.50 inch for 5” to 6” slump	ASTM C143
Concrete Air-	0.8% points using pressure meter 32% difference using roller meter	ASTM C 231 ASTM C 173
Concrete Temperature	1 degree F	ASTM C 1064
Concrete Unit Weight	2.31 pcf	ASTM C 138
Concrete Permeability	51% difference*	VTM 112
Concrete Strength	8% difference on the average of 3 cylinders	ASTM C39 ASTM C31
Asphalt Bulk Specific Gravity	0.02	AASHTO T-166 / VTM 6

* Percent difference calculation shall be % diff ≤ ({absolute value[W1-W2]} / ((1/2) * (W1+W2)))*100

Appendix 13.2 – F

Materials Certification Statement

Example TL - 131

CERTIFICATION OF MATERIALS

VDOT District Administrator

Route:	7900	Project Number:	7900-029-363, C501
County:	Fairfax	FHWA Number:	CM-5401(701)

Description:

Dear Sir:

This is to certify that:

1. All of the materials used on the above project were in reasonably close conformity with pertinent specification requirements of the contract as indicated by the test results obtained from job acceptance samples. Exceptions to this are noted and addressed on the attachment. All of the materials were properly covered by samples tested and accepted in accordance with the Department's established policies and procedures. Any items that failed to meet the Department's test standards were accepted/addressed under the conditions stated and shown on the attachment.

2. Where applicable, the results of the tests on independent assurance samples compare favorably with tests performed on the materials incorporated in the construction work as shown by the results of job acceptance sampling and testing. Any non-comparable results have been addressed and are documented on the attachment.

3. Exceptions to this certification are explained on an attached sheet. Appropriate reports covering tests or certifications as to conformity with specifications of materials used on the project are on file by project number in the office of the District Materials Engineer, Virginia Department of Transportation, , VA .

Sincerely,

Transportation District Administrator

cc: State Materials Engineer
Contract Administrator
District Materials Engineer

Appendix 13.2– G

Materials Testing Methods and Frequencies

QC/QA/IA Frequency - Soil & Aggregate

Material Type	Spec Section	Test Reference	QC Frequency/ Acceptance Testing	QA Frequency if Contractor performed QC	IA Frequency, recommended (NHS required)
Backfill	Contract Special Provisions				
Moisture Density Relations-Standard Proctor, Atterberg Limits & Grain Size Analysis (All Backfill Types)		VTM-1, VTM-7, & VTM-25	Once weekly during production and with change in material	Once every 5 weeks during production	1 test per year during production; minimally perform one (1) in first five (5) tests taken for QA
One Point Proctor Check with Sand Cone Density-Compare to Nuclear Gauge		VTM 012	Once Daily during production and with change in material	Once weekly during production	1 test per year during production; minimally perform one (1) in first five (5) tests taken for QA
In Place Density Tests:					
Box Culverts & Pipes		VTM-10	One (1) per 100LF length, each lift, minimum one (1) test per 150CY; minimum one (1) test per work shift at each location and whenever there is a change in material or compaction equipment/method	One Test per 1500 CY with a minimum 1 test every 10 days of production	One per 15,000 CY, minimally perform one (1) test in first five (5) tests taken for QA

Abutments, Retaining Walls and MSE Walls		VTM-10	One (1) per 100LF length, each lift, minimum one (1) test per 150CY; minimum one (1) test per work shift at each location and whenever there is a change in material or compaction equipment/method	One Test per 1500 CY with a minimum 1 test every 10 days of production	One per 15,000 CY, minimally perform one (1) test in first five (5) tests taken for QA
SOILS/ EMBANKMENT					
Moisture Density Relations-Standard Proctor, Atterberg Limits & Grain Size Analysis (Soils/Embankment)		VTM-1, VTM-7, & VTM-25	Once weekly during production and with change in material (Proctor for backfill will suffice if same source)	Once every 5 weeks during production	1 test per year during production; minimally perform one (1) in first five (5) tests taken for QA
One Point Proctor Check with Sand Cone Density-Compare to Nuclear Gauge (Soils/Embankment)		VTM 012	Once daily during production and with change in material (Proctor for backfill will suffice if same source)	Once weekly during production	1 test per year during production; minimally perform one (1) in first five (5) tests taken for QA
Embankment in Place Density (Soils/Embankment)		VTM-10	One (1) per 500LF interval each lift; minimum one (1) test per 500CY; minimum one (1) test per work shift at each location and whenever there is a change in material or compaction equipment/method	One test per 5000 CY with a minimum 1 test every 10 days of production	One test per 100,000 CY, or fraction thereof, with minimum of one test per project.
Subgrade	Sec. 305	VTM-10	One (1) test per 750 SY	One (1) test per 7,500 SY	One (1) test per 75,000 SY, minimally perform one (1) in first five (5) tests taken for QA

Treated Subgrade/Subbase, Aggregate Base Material, and Cement Treated Aggregate Base Material	VDOT Sections 306, 307, & 309				
Depth Checks		VTM-38B	One test per every half mile per lane width, minimum one (1) test per roadway	One test for every five miles per lane width.	One test per 10 roadway miles, or fraction thereof. Minimum of one per project, unless quantity of individual material(Base, sub-base, etc.) is less than 500 tons per project, in which case no IA test required for that material
In Place Density		VTM-10	One test per every half mile of stabilization per lane width, average of 5 readings for each nuclear test minimum one (1) test per roadway	One test for every five miles per lane width.	One test per 10 roadway miles, or fraction thereof, consisting of the average of 5 readings. Minimum of 5 readings per project, unless total quantity of individual material(Base, sub-base, etc.) is less than 500 tons per project, in which case no IA test
Clearing and Grubbing	VDOT Section 301				
Ensure activities are confined to limits and seeded within 30 days of disturbance		N/A	Daily	Weekly	

Erosion and Siltation Control	VDOT Section 303.03 & Current Virginia DCR Specifications				
Monitor for correct installation and Maintenance		N/A	Daily	Weekly	
Undercut	VDOT Section 303.04				
Review area to determine need for undercut		N/A	Prior to start of work at each location	All reports reviewed by Locality Project Manager to verify qualified inspector and correct equipment	One (1) QA report reviewed per month during production to verify qualified inspector and qualified personnel
Measure undercut area		N/A	Prior to backfill at each location	All calculations/reports checked/reviewed by Locality Project Manager to verify qualified inspector and correct equipment	One (1) QC calculation/report checked/reviewed to verify qualified inspector and correct equipment
Overlay Sands					
Grade D Silica Sand	Special Provision		One bag per project	NA	NA

QC/QA/IA Frequency - Hydraulic Cement Concrete

Material Type	Spec Section	Test Reference	QC Frequency/ Acceptance Testing	QA Frequency if Contractor performed QC	IA Frequency, recommended (NHS required)
Cast-In-Place Structures and Bridge Concrete	VDOT Section 217				
Concrete Entrained Air Content (CIP Concrete)		ASTM C231 or C173	Test every load	1 per 100 CY	One test shall be made on the same batches of concrete from which cylinders taken
Slump of Hydraulic Cement Concrete (CIP Concrete)		ASTM 143	Test every load	1 per 100 CY	One test shall be made on the same batches of concrete from which cylinders taken
Temperature of Concrete (CIP Concrete)		ASTM C1064	Test every load	1 per 100 CY	One per 500 CY, minimally one (1) in first five (5) tests taken for QA
Concrete Unit Weight		ASTM C138	Test every load	1 per 100 CY	One per 500 CY, minimally one (1) in first five (5) tests taken for QA

Compressive Strength of Concrete Cylinders (CIP Concrete)		ASTM C31 & C39	One (1) set of three (3) cylinders per every 100 CY and at least one set per day with minimum of 2 sets of cylinders per structure per class of concrete.	One (1) set of three (3) cylinders per every 1000 CY. Minimum of one sample per project.	Minimum one set per 1000 cubic yards of structural concrete, except that Independent Assurance Sample(IAS) will not be required for projects having less than 300 cubic yards. If more than one set is needed per project, the samples should be taken from di
Chloride Permeability Concrete Cylinders (CIP Concrete)		VTM-112	One (1) set of two (2) cylinders per every 100 CY and at least one set per day	One (1) set of two (2) cylinders per every 1000 CY. Minimum of one sample per project.	Minimum one set per 1000 cubic yards of structural concrete, except that IAS will not be required for projects having less than 300 cubic yards. If more than one set is needed per project, the samples should be taken from different classes. One set of 2
Concrete Reinforcing Steel (CIP Concrete) elongation, yield strength and ultimate strenghth		ASTM A615	Verify manufacturers certificates for every shipment for acceptance prior to placement	1 sample per manufacturer per most common size per structure	1 sample per project
Pavement	VDOT Section 217				
Concrete Entrained Air Content (Pavement)		ASTM C231 or C173	One test per hour & when casting Flexural Beams	One test per day	One test shall be made on the same batches of concrete from which cylinders taken
Slump of Hydraulic Cement Concrete (Pavement)		ASTM 143	One test per hour & when casting Flexural Beams	One test per day	One test shall be made on the same batches of concrete from which cylinders taken

Temperature of Concrete (Pavement)		ASTM C1064	Test every load	1 per 100 CY	One per 500 CY, minimally one (1) in first five (5) tests taken for QA
Concrete Unit Weight		ASTM C138	One test per hour & when casting Flexural Beams	One test per day	One per 500 CY, minimally one (1) in first five (5) tests taken for QA
Compressive Strength of Concrete Cylinders (Pavement)		ASTM C31 & C39	One (1) set of three (3) cylinders cast for every 100 cy and at least one for each days concreting operation	One (1) set of three (3) cylinders per every 1000 CY minimum of 1 set per project	Minimum one set per 1000 cubic yards of structural concrete, except that IAS will not be required for projects having less than 300 cubic yards. If more than one set is needed per project, the samples should be taken from different classes. One set of 3
Flexural Strength Beams		ASTM C31 & C39	At least one beam cast for each days concreting operation.	Minimum of one beam per week.	Minimum of one beam per month.
Chloride Permeability Concrete Cylinders (CIP Concrete)		VTM-112	One (1) set of two (2) cylinders per every 100 CY and at least one set per day	One (1) set of two (2) cylinders per every 1000 CY minimum of 1 set per project	Minimum one set per 1000 cubic yards of structural concrete, except that IAS will not be required for projects having less than 300 cubic yards. If more than one set is needed per project, the samples should be taken from different classes. One set of 2
Concrete Reinforcing Steel (pavement) elongation, yield strength and ultimate strenght		ASTM A615	Verify manufacturers certificates for every shipment for acceptance prior to placement	1 sample per manufacturer per most common size for every 2 lane miles	

Miscellaneous Concrete	VDOT Section 217				
Concrete Entrained Air Content (Miscellaneous Concrete)		ASTM C231 & C173	One (1) test per hour and when cylinders are cast.	One (1) test per day	One per 10,000 CY, minimally one (1) in first five (5) tests taken for QA
Slump of Hydraulic Cement Concrete (Miscellaneous Concrete)		ASTM C143	One (1) test per hour and when cylinders are cast.	One (1) test per day	One per 10,000 CY, minimally one (1) in first five (5) tests taken for QA
Temperature of Concrete (Miscellaneous Concrete)		ASTM C1064	One (1) test per hour and when cylinders are cast.	One (1) test per day	One per 10,000 CY, minimally one (1) in first five (5) tests taken for QA
Concrete Unit Weight		ASTM C138	One (1) test per hour and when cylinders are cast.	One (1) test per day	One per 10,000 CY, minimally one (1) in first five (5) tests taken for QA
Compressive Strength of Concrete Cylinders (Miscellaneous Concrete)		ASTM C31 & C 39	One (1) set of three (3) cylinders per every 250 CY and at least one set per day	One (1) set of three (3) cylinders per every 2500 CY (cumulative)	One (1) set of three (3) cylinders per every 25,000 CY (cumulative)
Concrete Reinforcing Steel (Miscellaneous Concrete)		ASTM A615	Verify manufacturers certificates for every shipment for acceptance prior to placement	1 sample per manufacture per most common size per structure	One (1) sample per project
Concrete Curing Materials	VDOT Section 220				
Burlap		AASHTO M182, class 3	Verification of LM # and lot numbers if from QA supplier Approved list 44, if not one sample per lot number	NA	NA

White liquid membrane Curing Compound		VTM - 2	Verification of LM # and batch numbers if from QA supplier Approved list 44, if not one sample per batch number	NA	NA
Fugitive Dye Liquid Membrane Curing Compound		VTM - 2	Verification of LM # and batch numbers if from QA supplier Approved list 44, if not one sample per batch number	NA	NA
Polyethylene Film		AASHTO M171	Verification of LM # and lot numbers if from QA supplier Approved list 44, if not one sample per lot number	NA	NA

QC/QA/IA Frequency - Asphalt

Material Type	Spec Section	Test Reference	QC Frequency/ Acceptance Testing	QA Frequency if Contractor performed QC	IA Frequency, recommended (NHS required)
Asphalt Concrete Pavement	VDOT Section 315				
Pavement Density by Nuclear Method with In Place Pavement Density (Asphalt Pavement)		VTM-76, VTM-6	Establish Roller pattern, control strips and test sections, 10 stratified random density test sites per test section (5,000 ft.)	QA=20%*QC Lots Acceptance Options: 1) e.g. 25000 ft. (7500 m) per Lane width. Ten (10) stratified random samples per QA lot. Limits of QA lot should match limits of one QC lot. OR 2) Coring /Saw plugs method Use AASHTO T-166 /Five (5) cores/plugs	IA=10%*QC Readings Locality representative observe and witness QC testing to assure gauge is calibrated and accurate. Observe and verify test sites are random and match selected sites. Verify that QC tests are done using proper procedures.
In Place Pavement Density (for all asphalt except Stone Matrix Aphalt (SMA))		VTM-006; VTM-32	**Density** - min. 1 core per location not long enough to establish roller pattern/control strip	**Density -** One (1) random core per 10 QC locations	One test per 2 roadway miles, or fraction thereof. Minimum of one per project, unless combined total quantity of all asphalt concrete material is less than 500 tons per project, in which case no IA test required.

Depth Checks		VTM-32	One (1) per per 1/4 mile per lane width, minimum one (1) test per roadway, maximum lot size 1 mile (4 tests)		One test for every fifty (50) miles per lane width, minimum one test per roadway Also, depth tests of intermediate or surface material required only if specfic plan depths are called for, not when plans specify rate of application
In Place Pavement Density and Depth Checks by cores for Stone Matrix Asphalt (SMA)		VTM-006	Minimum of one (1) sample per 1,000 feet with a maximum of 5 samples per day/night's production for density and depth. Three (3) cores for test strip.	Locality Representative Independently weigh and measure 1 QC core per day/night's production QA will observe the taking of these cores and will maintain control of these cores once obtained	
Permanent Pavement Marking	VDOT Section 512				
Permanent Pavement Marking - Preformed Tape		VTM-94	Daily at start up with periodic checks every three hours of operation	Randomly select ten (10) twenty-foot in place sections of markings per day and measure thickness and width. Observe the bead embedment, color (night and day) and brightness/reflectivity Inspect structure of tape to ensure patterned waffles have not been d	Review two (2) C-85 reports per month during production to verify that calculated quantities match aplication rates and that daily measurements are performed according to VTM 94.

Permanent Pavement Marking - Liquid Materials (Paint, thermoplastic and epoxy)		VTM-94	Daily at start up with periodic checks every three hours of operation	Randomly select ten (10) twenty-foot in place sections of markings per day and measure thickness and width. Observe the bead embedment, color (night and day) and brightness/reflectivity. Review application rates to ensure proper thickness has been applied	Review two (2) C-85 reports per month during production to verify that calculated quantities match application rates and that daily measurements are performed according to VTM 94.

QC/QA/IA Frequency - Misc Roadway and Structure

Material Type	Spec Section	Test Reference	QC Frequency/ Acceptance Testing	QA Frequency if Contractor performed QC	IA Frequency, recommended (NHS required)
Pre-cast Structures	VDOT Section 404				
Verify bedding material is installed properly and that pre-cast materials are not chipped or cracked		N/A	Daily and when shipment arrives on project	Weekly	
Load Bearing Piles	VDOT Section 403				
Monitor operation and document blow counts		N/A	Continuously	Daily	
Perform Center of Gravity Calculations		N/A	For each Foundation	one out of every ten foundations	
Structural Steel	VDOT Section 407				
Check of torque of bolts		ASTM 325	10% of bolts but not fewer than 2 in any connection	Minimum 1 bolt per connection	

Rebar Splicer (Tension Test)		ASTM A615	1 sample per manufacturer per most common size per structure (Contractor is to install pieces)	1 sample per manufacturer per most common size per project (Contractor is to install pieces)	Verify Machine Calibration annually
Prestressing strand splicer (Tension Test)			1 sample per manufacturer per most common size per structure	2 sample per manufacturer per most common size per project	Verify Machine Calibration annually
Protective Coating of Metal Structures	VDOT Section 411				
Monitor surface preparation		SSPC-PA	Three surface projile measurements per day of blasting.	Two (2) surface proflie measurements per week of blasting.	Review all reports showing the preparation protocols
check coating thickness according to SSPC -PA		SSPC-PA	Five(5) spot measurements (15 Readings) per day as defined in PA-2 for coating thickness after each layer of paint at each location	One spot measurement (3 readings) as defined in PA-2 for coating thickness after each layer of paint at each location	Review all reports showing-painting application rates including the tests performed on profiles and thicknesses.
Underdrains	VDOT Section 501				
Inspect to ensure no deficiencies		VTM 108	All accessible outlet locations; Additionally a minimum of 10% of longitudinal sections	Observe 10% of outlet locations; Additionally a minimum of 1% of longitudinal sections	
Guardrail	VDOT Section 505				

Verify that guardrail is installed per specifications and at proper height			Daily	Spot-check every 50lf for proper height	
Fencing	VDOT Section 507				
Verify fencing type, height and location		N/A	Daily	Weekly	
Barbed Wire	VDOT Section 242	ASTM A121	One sample every 50 rolls or spools	NA	NA
Chainlink Fence	VDOT Section 242	AASHTO M181	One sample from 3 rolls for every 50 rolls.	NA	NA
ROW Monuments	VDOT Section 503				
Verify monument type and location		N/A	10% of ROW monuments	1% of ROW monuments	
Maintenance of Traffic	VDOT Section 512				
Monitor installation and maintenance and use Work Zone Safety Checklist		N/A	Daily (Locality Inspector)	Weekly (Locality Project Manager)	
Sound Wall Barriers	VDOT Section 519				
Verify location and installation with shop drawings		N/A	Daily	Weekly	

Topsoil and Seeding	VDOT Section 602/603				
Verify proper material is utilized at application rates from plans		N/A	Daily	Weekly	
Traffic Signs	VDOT Section 512				
Verify that signs meeting current standards are utilized in locations per plans		N/A	Daily	Weekly	
Traffic Signals	VDOT Section 703				
Monitor installation for conformance with plans and specifications		N/A	Daily	Weekly	
Water and Sewer Facilities	VDOT Section 520				
Monitor installation for conformance with plans and specifications		N/A	Daily	Weekly	
Electrical and Signal Components	VDOT Section 238				
Tether Wire		ASTM A475	One sample per project	NA	NA
Span Wire		ASTM A475	One sample per project	NA	NA

Masonry	VDOT Section 202				
Wall Units			one sample consisting of 10 units per 10,000 units	NA	NA

13.3 CHANGE ORDERS

13.3.1 Introduction

A Change Order is a written addendum to the contract that is developed during construction for the purpose of establishing an agreement between the contractor and the LPA to add, modify, or delete pay items, contract time, or other terms of the contract.

The LPA must develop a process for managing change orders and include the process within their contract documents for any federal-aid project. Subsequently, any change order must follow the process specified in their contract. The LPA shall notify the VDOT CPM when processing Change Orders, as outlined below. When applicable, typically for federal oversight projects, the VDOT ACE will notify and receive concurrence from the Federal Highway Administration (FHWA) on federally funded projects as required.

13.3.2 Applicability

Change Orders		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*	*

* State-aid projects that require additional state funding or a design exception

13.3.3 Change Order – Summary

Change orders amend the contract by adding or deleting work, making reimbursement for additional costs incurred, making material substitutions, and changing specifications. Only work necessary to complete the project as

originally intended may be added by change order and be eligible for reimbursement.

A change order is prepared and processed for any of the following reasons:

- An increase or decrease in any of the contract pay items;
- Changes in the work which were not originally delineated in the contract such as revised design considerations;
- The addition of a new or modified pay item required to complete the work in accordance with the contract;
- Changes caused by outside agencies such as utilities, railroads, etc.;
- Payment adjustments due to contract provisions;
- Quantity changes to meet field conditions;
- Plan errors;
- Suspension of Work;
- Final measurements/calculations; and
- Settlement of a dispute or claim resulting from any of the above reasons.

The LPA must receive concurrence from the VDOT CPM for any change order which:

(1) Will result in the need for additional federal or state-aid beyond the funding identified in the project administration agreement; or
(2) Requires a design exception or waiver; or
(3) Is federal-aid and may result in work outside the project limits identified in environmental documentation (the NEPA documentation); or
(4) When a previously approved pay-item is being removed or replaced.

Should the LPA direct the contractor to perform added work prior to approval by VDOT, reimbursement maybe denied. When it is not reasonable to wait for a formal approval by VDOT due to emergencies or other site conditions, the LPA shall attempt to contact the CPM, the District Construction Engineer, or other

VDOT Construction representative to obtain verbal approval for the change order.

13.3.4 Change Order Approval Process

For non-emergency change orders, the LPA PM, as soon as he/she recognizes that a change order may be necessary, is required to submit a "conceptual change order request" to the VDOT CPM. This request outlines the general nature and the justification for the anticipated change order. After consultation with the CPM, a final change order request is submitted. The final change order will specify the final estimated costs and will provide any additional information requested by VDOT during the conceptual change order review.

The final change order must provide sufficient explanation to ascertain that the work is necessary, consistent with specifications, within the scope and intent of the LPA agreement and approved by the CPM. If the change order is approved by VDOT and FHWA and /or State funds are available above current VDOT project encumbrances, but under the project capped amount, funding may be permitted. Funding of change orders not approved or for which no FHWA and/or State funds remain, is the sole responsibility of the LPA.

VDOT Responsibilities:

- *The Construction Project Monitor will review the conceptual change order and determine the following:*
  (1) If additional funds are needed. If so, the CPM will begin processing the request for additional funds and agreement modification.
  (2) If a design exception or waiver will be necessary. If so, the CPM will coordinate with the LPA to have appropriate design exception request submitted.
  (3) If the change order will impact any areas outside the original project footprint as identified in the environmental

documentation, for federal-aid projects. If so, additional environmental evaluation(s) may be necessary prior to any work.

- *The Construction Project Monitor will notify the LPA PM, in writing of the approval or denial of the change order request. Change order request reviews, that do not require additional design or environmental evaluation, should generally take no longer five business days.*
- *For federal oversight projects, the Construction Project Monitor must coordinate and receive concurrence from the FHWA Area Engineer.*

Note that the performance of extra work or additional quantities of work may warrant an extension of contract time. Extensions of contract time may result in additional direct project overhead cost. Once the need to perform extra work on a project has been identified, a basis of payment for this work must be established.

13.3.5 Change Order Pricing / Evaluation

The two types of pricing for extra work are usually Agreed Unit Price or Force Account Price.

Agreed Unit Price is used when the extra work can be broken down into measurable units. The number of units necessary to perform the work is estimated and a unit price determined and agreed upon. The agreed upon unit price should be a unit price already established in the contract or comparative pricing may be used. The PM may refer to VDOT's website of average bid prices to assist with this effort.

Force Account Price is used when the work cannot be broken into measurable units or when a unit price cannot be agreed upon. This method reimburses the

contractor the actual costs of labor, equipment and materials incurred in the performance of the work including allowable overhead and markup. This method requires a significant amount of record keeping.

The records required for force account pricing of extra work must accurately depict all labor, equipment and materials used by the contractor to perform the work. The Blue Book for heavy Highway Equipment costs with the VDOT procedure for establishing appropriate equipment costs shall be utilized as per the VDOT Road and Bridge Specifications. The items that are necessary to record are shown below:

_ Description of Work
_ Contractor's Work Force
_ Employee Name
_ Classification
_ Hours Worked - Regular and Overtime
_ Contractor Equipment
_ Type
_ Model
_ Age
_ Capacity
_ Hours Worked
_ Hours Idle
_ Materials
_ Description
_ Quantity
_ Invoices

13.3.6 Quantity Measurements

The PM shall record the measurements of the quantities of work in the units prescribed by the plan actually performed by the contractor. Change orders must

be prepared to make adjustments for any differences between contract quantities and the quantities actually performed.

Issues of efficiency or other similar factors may arise that may impact unit costs when the quantities actually performed differ significantly from those shown in the plan. For these occurrences the quantity records shall be thorough enough to determine actual production rates and other such items.

13.3.7 Force Account

If the LPA and the Contractor are not in agreement on the amount to be paid for the work, the Project Manager may set up a unit price or may require the work to be performed on a Force Account basis. This approach, however, must be utilized only as a last resort after all efforts to negotiate a change order with the contractor have been exhausted. Under Force Account provisions, the LPA pays up to allowable costs of the Contractor's equipment and labor necessary to do the work. The Contractor is compensated for the work on the basis of records kept by the Inspector and the invoices for materials.

If additional funding will be requested from VDOT, the LPA PM must provide pertinent information to the CPM for review and approval. Information should include a brief but complete description of the work to be performed, a definite location by station numbers, a listing of all anticipated classifications of labor and rate for each classification, a listing of materials and equipment to be used, giving the weekly and hourly rates. The project manager must document any equipment not covered by the current "Blue Book" and which rates have been agreed upon based on prevailing area rates or those being paid by the Contractor at the time of the authorization. A statement is to be prepared which sets forth reasons for the extra work.

Force Account work is paid for in accordance with the Specifications. The Project Manager should keep accurate daily records of the work as it is

accomplished. At the end of each day the Contractor's representative and the Inspector should compare records of the work performed.

All bills for materials used must be properly supported by copies of the invoices for the materials received on the job. Freight costs and taxes are considered to be part of the cost of the material used on Force Account work.

Payrolls for labor on Force Account work are required and must show the name of the employee, job classification, the rate of pay actually paid by the Contractor, the dates on which the work was performed and the number of hours worked daily by each employee on Force Account.

Bills for equipment used on Force Account must show the number of hours each piece of equipment worked each day, the dates on which the work was performed and sufficient description of the equipment so that the rate of pay can be determined. At the conclusion of the work, the entire Force Account charge is to be summarized. The Contractor must furnish invoices, payrolls, freight bills, etc. to support the charges.

All documentation records are to be furnished to the LPA for final cost verification. Cost verification is to be part of the Final Review operation and should be accomplished immediately following the completion of each Force Account authorization. Verification of such costs is the responsibility of the LPA.

13.3.8 References

23 CFR 635
§2.2-4309 of the Code Virginia
Construction Directive Memorandum – Contract Change Management CD-2010-1

13.4 CLAIMS

13.4.1 Introduction

The LPA is subject to claims by the contractor who performs the work. The stated terms of the project between the LPA and the contractor exist in the contract, the specifications and the plans. There are certain terms that are not stated in the contract documents. These are known as implied terms. For instance there is an implied warranty that the plans and specifications are free from defects and, unless stated otherwise, that there will be safe and continuous access to all areas within the project's boundaries. Claims arise from both stated and implied terms. **A claim is a dispute between the LPA and the contractor. While VDOT must be informed of any claim, VDOT is not a party to the claim.** If the LPA plans to utilize federal or state aid to resolve a claim, coordination with VDOT must be made in accordance with this chapter.

13.4.2 Applicability

- **Any claim which will involve the utilization of federal or state aid.**

13.4.3 LPA's Claims Management Process

The LPA's Claims Management Process must meet the general framework and intent of VDOT's Claims Process. The VDOT Claims Management Process requires progressive administrative reviews of a contractor's claim prior to a filing in the Court of Claims. By requiring administrative reviews beginning at the project level, construction contract claims have been reduced. Likewise, a process for the fair hearing of a claim or dispute reduces a contractor's risk and ultimately results in more competitive bids.

It is required that the LPA formalize a claims management process that includes progressive administrative reviews prior to formal legal action by the contractor or the LPA. The LPA's Claims Management Process must be prepared and

approved by VDOT prior to contract award. Preferably, the Claims Management Process would be included in the LPA's bid documents. Resolution of all claims must be according to the project's approved Claims Management Process and approved by the DCE or designee if the resolution affects the contract completion date and/or increases project costs.

13.4.4 Who Can Make A Claim?

The only entity that may assert a claim against the LPA is the legal contractor of record. If the project is being performed by a joint venture, then only the joint venture may assert a claim. A single party to the venture cannot assert a claim. Likewise, a subcontractor may not assert a claim against the LPA, but may make a claim against the Prime contractor who, in turn, may assert a claim against the LPA for damages incurred by the subcontractor.

13.4.5 Elements of a Claim

Every claim has two distinct elements, entitlement and damages. Entitlement is the theory under which the contractor asserts the claim. The contractor must prove entitlement. Examples are work not shown on plans, conflict between plans and specifications, third party delays, and unforeseen conditions. Damages are the cost impacts incurred by the contractor which are over and above normal costs and which are caused by the claim event. Each claim must have both of these elements. If a contractor encounters a situation where there would be an entitlement but incurs no monetary impact, there is no claim. Likewise, a contractor may state that he has incurred additional costs but cannot establish an entitlement, then there is no claim.

13.4.6 Types of Claims

The contractor shall make a reasonable effort to mitigate damages. Mitigation might include re-sequencing, reducing, re-mobilizing or changing manpower. The contractor is entitled to recover the costs of mitigation. Certain types of disputes by their nature may result in a claim. Claims may be due to plan discrepancies or omissions, allowable costs in calculating change orders, unforeseen site

conditions, quantity variations, interferences, and delays. Delays require careful analysis to determine who is responsible. The contractor must demonstrate that the delay was critical. It should be demonstrated that the delay in question affected the overall project schedule and was a controlling operation with respect to project completion. Delays that are unforeseeable and beyond the control of the contractor are excusable delays. Excusable delays may be either compensable or non-compensable. Delays caused by the LPA, such as lack of site access, late approval of shop drawing, and redesign, may be compensable. Delays caused by third parties outside the contractor's control, such as floods, transportation industry delays, fire and vandalism may be non-compensable. Inexcusable delays are always non-compensable. These delays, such as subcontractor delay, late mobilization, production longer than scheduled, and equipment breakdowns are caused by the contractor or under his control. Very often delays may occur from various sources at the same time. These delays are known as concurrent delays. The LPA caused compensable delay occurring at the same time as an excusable delay that is non-compensable should result in a time extension but no recovery of costs. The LPA caused delay occurring at the same time as a contractor delay should result in a time extension but no recovery of costs. Both cases relieve the contractor from liquidated damages for the time in question. The contractor is entitled to plan and pursue the work in order to finish ahead of the contract completion date. If the LPA delays the contractor, the contractor may be entitled to impact costs.

13.4.7 Proof of Claim

Proof of entitlement and proof that additional costs were incurred rests solely with the contractor. The contractor should notify the LPA through the PM of each instance where there is an intent to file a claim. This notice requirement allows the LPA the opportunity to mitigate the claim situation and to begin to keep careful and specific records of the contractor's activities, manpower, equipment and materials that are related to the claim.

13.4.8 Analyzing a Claim

To analyze a claim the following steps should be taken:

1. Determine the element of Entitlement

    _ Was the claim filed timely and was the LPA given the required notice?

    _ Identify the contractor's position.

    _ What does the contract plans and specifications say about it?

    _ What do the contract documents say?

    _ Determine the actual conditions giving rise to the claim.

    _ Identify each specific claim issue. What is the position of both sides on each issue?

    _ Identify responsibility. If delay related, is it excusable vs. non-excusable, compensable or is there an issue of concurrent delay?

    _ Was there actually an impact?

At this point of the analysis if there is no entitlement, then there is no claim. If there is entitlement then continue on.

2. Determine the element of Damages

    _ Review the contractor's cost

    _ Compare with the LPA records

    _ Analyze the damages

13.4.9 Claim Avoidance

The avoidance of claims is best affected by proper contract management practices. The LPA can help prevent claims by practicing the following activities:

_ Constructability Reviews;

_ Prequalification of Contractors;

_ Proper Scheduling;

_ Prompt Resolution of Change Orders;

_ Pre-bid and Pre-con Meetings; and

_ Partnering.

13.4.10 Local Government Responsibilities / Submittals

The LPA will notify the VDOT Project Coordinator if a contractor files a notice of intent to file a claim during the project.

The LPA will advise the VDOT Project Coordinator if a contractor files a claim at the completion of the project.

The LPA will advise the VDOT Project Coordinator of the resolution of the claim.

13.4.11 VDOT Responsibilities / Approvals/Timeframes

No VDOT approvals required.

For Federally funded projects on the NHS, the ACE or VDOT Project Coordinator will inform the Contracts and Scheduling division so that they can advise FHWA of the claim.

The VDOT Project coordinator or ACE will ensure that the project is not closed until all claims have been resolved.

13.4.12 References

- § 33.1-386 Code of Virginia
- 23 CFR 635.124
- 23CFR 630 Subpart J - Work Zone Safety and Mobility
- 23CFR 635.105 – Supervising Agency
- 29 CFR 1926 – Safety and Health Regulations for Construction

APPENDIX 13-A

Construction Administration

Project Delivery Checklist

Chapter 13 – Project Delivery Checklist

(provisions of FHWA Recovery Act checklist have been incorporated; however, the FHWA Recovery Act Checklist must be submitted at completion of project)

F	*S-V*	*S-L*	*Requirement*	*Chapter / Section*
			Chapter 13.1 Construction Administration	
x	--	--	LPA provides full time government employee responsible for the project	13.1.3
x	--	--	Staffing is adequate (23CFR635.105)	
x	x	--	Significant deviations from Construction Manual and Inspectors Manual identified and provided to VDOT for approval	13.1.3
x	x	--	Land-use permit and surety bond obtained	13.1.4.1
x	x	x	PCES estimate Updated[1]	13.1.4.2
x	x	x	Project profile in Dashboard[1]	13.1.4.2
x	--	--	Preconstruction meeting held with VDOT Construction Project Monitor	13.1.4.3
x	x	--	Project schedule prepared / submitted; includes critical milestones for VDOT participation	13.1.4.4
x	x	--	"Interaction Guidelines" prepared (optional)	13.1.4.4
x	x	--	Daily construction diary initiated / maintained throughout project	13.1.5.1
x	x	--	Alternative QAP submitted, if needed	13.1.5.3
x	x	--	Field modifications to design approved by VDOT Construction Project Monitor	13.1.5.5
x	x	x	Reimbursement requests certify compliance with requirements	13.1.5.6
x	x	x	Final payment reconciled prior to submittal for reimbursement	13.1.5.6
			Chapter 13.2 Materials Assurance	
x	x	--	Source of materials documentation	13.2.3
x	x	--	Identify need for VDOT support for source inspections or prefabricated materials inspections	13.2.4
x	x	--	Materials acceptance technicians certified; records of certified inspectors maintained	13.2.5
x	x	--	Materials notebook initiated and maintained (or included in project documents) throughout project (23CFR635.123)	13.2.7
x	x	--	Sign inventory created and submitted	13.2.10
x	x	--	Local tracking numbers established for materials accepted by manufacturer certification	13.2.10
x	--	--	Independent assurance plan developed and samples collected for NHS projects	
			Chapter 13.3 Change Orders	
x	--	--	Submit conceptual change order / obtain approval (23CFR635.120)	13.3.4
x	--	--	Force account procedures necessary (23CFR635.120)	13.3.7
x	--	--	Independent cost estimate prepared (23CFR635.120)	13.3.5
x	--	--	Costs justified (23CFR635.120)	13.3.5
x	--	--	Submit final change order / obtain approval / approvals documented (23CFR635.120)	13.3.4
x	--	--	Extension in Project Times must be approved by VDOT and subject to FHWA concurrence (23CFR635.121)	13.3.4
			Chapter 13.4 Claims	
x	x	--	Any claim which may require additional state or federal aid must be fully coordinated with VDOT	13.4.2

[1] Required for project funded with "formula" dollars; not required for Revenue Sharing, Access, or enhancement projects

Locally Administered Projects (LAP) Manual

PART 2

Project Management

Chapter 14

Project Close-out

CHAPTER 14
POST CONSTRUCTION/PROJECT CLOSE-OUT

Section 14.1 Final Acceptance

Section 14.2 Final Invoicing

Section 14.3 Street Acceptance/Changes to Inventories

14.1 FINAL ACCEPTANCE

14.1.1 Introduction

This chapter of the Locally Administered Project Manual sets out the processes and responsibilities associated with project closeout. This process includes gaining acceptance of the project from all participating agencies, determination of and agreement on the final value of the contract, and the completion of all remaining contract requirements. This process ultimately leads to the final payment and release of the contractor from further responsibility for the project. This initiates several additional processes including closing the project in VDOT's systems and having the changes reflected in the appropriate inventory system.

This section of the Project Close Out chapter sets out the processes and responsibilities associated with the final inspection for locally administered projects. The expected outcomes include providing for a thorough inspection of the finished product to ensure it complies with the plans and specifications for the project and for a complete final review of project documents.

14.1.2 Applicability

Final Acceptance		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*X*	--

14.1.3 Final Inspection Process

A final project inspection must be made to determine if the project reasonably conforms to the approved plans and specifications. The LPA is responsible for coordinating and performing the final project inspection. Generally, the final inspection with VDOT will only occur after the LPA and their construction contractor have completed all work and "punch-list" items. However, the VDOT

CPM may attend a preliminary project close-out inspection with the LPA to develop the initial punch list items for corrective action.

The LPA Project Manager should invite the VDOT CPM, the contractor, and representatives of other agencies, which may have an interest or review authority (e.g. utilities, railroads). During the final inspection, the team will identify the need for any corrective actions or additional work and create a revised punch list detailing this work at the final inspection.

The LPA PM will provide the revised punch list to the contractor along with specified time frame or specified date for completion of the prescribed work. The PM will follow up to assure that the contractor completes the punch list work in a timely manner.

Upon completion of all physical work, including Punch List work, the PM will forward the LPA's written acceptance and final project certification to the VDOT CPM. This will include the C-5 (reports start and completion date), M4.01 Road Inventory Notification Form, and any additional required project documentation not already submitted, such as materials certifications and documentation (see chapter 13).

Once the project has been accepted, the LPA should proceed to process the final invoice. Further guidance on this is provided in Section 14.2 (Final Invoicing).

VDOT Responsibilities:
The CPM is typically the lead VDOT contact for the final inspection and close-out process. The CPM will:

- *Ensure that all final submittals from the LPA PM are included in the files and are distributed to any VDOT staff requiring copies.*
- *Coordinate with other VDOT staff and FHWA, when applicable, which may have a need to participate in the final project close-out inspection. The CPM shall attempt to ensure all VDOT*

review needs are met with the fewest VDOT staff as possible. The FHWA Area Engineer must be invited to participate in any federal oversight project. Federal oversight projects also have specific additional final reporting requirements found in the Efficiencies Agreement (see references).

14.1.4 Key Submittals / Requirements

Task/Submittal / File Documentation	***Locality Responsibility***	***VDOT PC Responsibility***	***Submittal Timing / Recordkeeping Requirements***
Conduct Final Inspection	Locality will schedule final inspection and invite all appropriate participants	Participate in final inspection/coordinate VDOT participation and FHWA participation if federal oversight project.	N/A
Punch List	Locality will develop punch list based on final inspection and	N/A	N/A
Provide written acceptance and final project certification. This includes submittal of the C-5and M4.01. For federal oversight projects; final acceptance also includes submittal of several other forms required by FHWA identified in the chapter.	After determining that all punch list items have been completed, Locality will provide written acceptance and final project certification. This includes providing signed C-5 and completed M4.01 reporting R/W inventory changes.	Project Coordinator will review information submitted and notify locality that they can finalize project records for final voucher. Project Coordinator will circulate C-5, M4.01 and other required submittals to all appropriate parties to inform them the project is completed	C-5 is the official document VDOT uses to certify project is complete. C-5 remains part of project record. The M4.01 reports any on R/W changes to the highway inventory
Submittal of electronic plans in pdf format (VDOT proposes to require as built plans after Jan 1, 2010)	Locality will submit electronic plans in PDF format at completion of project to Project Coordinator	Project Coordinator will forward plans to plan library	Electronic plans should be provided prior to final invoice

14.1.5 References

- VDOT/FHWA 2007 SAFETEA-LU Efficiencies Agreement (Page 8) FHWA Inspections and Final Acceptance of FHWA Oversight Projects

14.2 FINAL INVOICING

14.2.1 Applicability

Final Invoicing		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*X*	*X*

14.2.2 Summary

.

Once the LPA has provided written acceptance and final project certification to the project coordinator, final invoicing will be initiated.

14.2.3 Final Invoicing Process

Determination of Final Contract Value

A key element of the project closeout is the determination of the final dollar value of the construction project. This is accomplished by determining the final number of units to be paid for each item of the contract and by processing all necessary change orders including a final change order and/or another document noting agreement by all parties to the final contract value.

Preparation and Reconciliation of Contract Quantities

The LPA PM is responsible for determining and preparing support documentation for the final quantity to be paid for every item of work contained in the construction contract. Ideally, this is accomplished progressively as the items are completed during the course of construction of the project. At the end of the project, this will include:

- After all physical work has been completed for the project, the project records are reconciled.

- Upon completion of the reconciliation, a list of approved final quantities is prepared and is forwarded to the contractor for concurrence.

- Once agreement with final quantities has been obtained a final change order and/or other document is prepared to make any necessary adjustments between the final and original contract quantities and signify agreement by all.

Preparing Final Voucher

Once the quantities are finalized, the LPA will prepare the final invoice. The final estimate and voucher should be examined and verified by an independent reviewer or auditor not affiliated with the project and written documentation of the verification should be provided with the final invoice for final payment to the Department. The reviewer may be employed by the locality but should not be directly affiliated with the project. LPA should indicate “Final” on the final invoice, so that project close-out procedures with FHWA, when applicable, may begin. Prior to a request for final reimbursement, the LPA will ensure the following forms and documentation have been submitted, as applicable to the project:

- A copy of the Project Acceptance and Certification document

- Approved C-5, reporting the start and completion dates, for all projects

- Electronic plans

- Materials Certifications (see chapter 13)

VDOT Responsibilities:

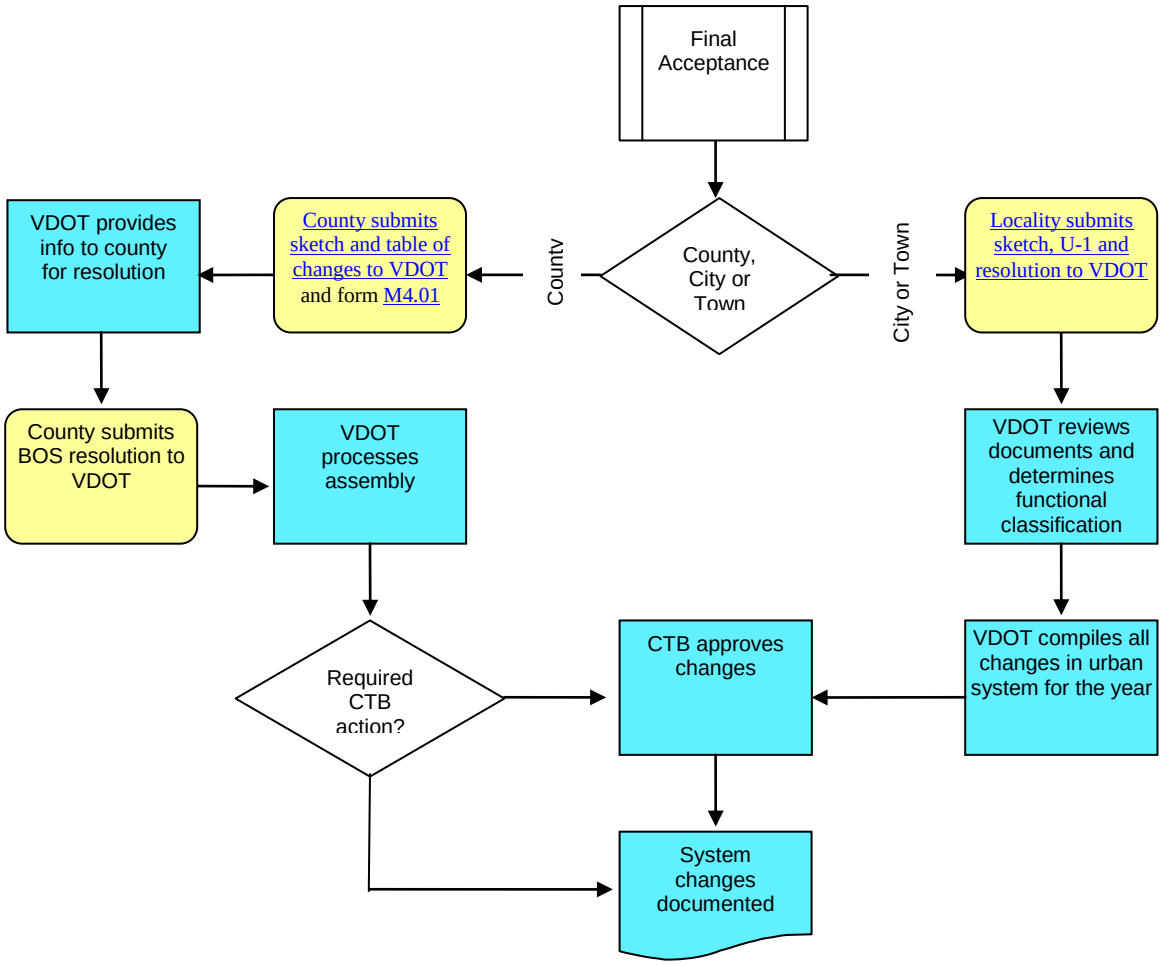
- *The CPM, upon receipt of the final voucher, will review all expenditures and allocations on the project (including final verification of VDOT charges). If any updates are needed to the maximum reimbursement amount, the CPM will initiate the appropriate agreement update with the Local Assistance Division and will begin processing the final reimbursement request.*
- *If federal funds are involved, the CPM requests Federal Highway Administration (FHWA) approval.*
- *After receiving approval of the final voucher from the FHWA, VDOT makes the final federal-aid reimbursement and distributes copies of the approved final voucher to the LPA, other VDOT offices as appropriate and the appropriate Metropolitan Planning Organization (MPO) or Regional Planning Agency (RPA) as applicable*
- *The CPM will notify appropriate VDOT staff to initiate close out procedures in VDOT systems in accordance with project close-out procedures.*

14.2.4 Key Submittals / Requirements

Task/Submittal / File Documentation	*Locality (LPA) Responsibility*	*VDOT Project Coordinator Responsibility*	*Submittal Timing / Recordkeeping Requirements*
Submitting Final Invoice	Locality submits final invoice once project has been accepted and all project costs have been finalized	Project Coordinator reviews final invoice and once they concur, begin processing final payment and coordination with FHWA	N/A
Approved Final Voucher	N/A	Project Coordinator provides copy to LPA and other VDOT staff as applicable	Date of Final Invoice initiates retention period for all federal projects

14.3 STREET ACCEPTANCE

Flowchart for Processing Street Changes Due to Construction



14.3.1 Introduction

This section sets out the processes and responsibilities associated with recording changes to the highway systems as a result of construction projects. The final outcome of this process should be that all changes to roadways resulting from locally administered construction projects are accurately documented and reported to ensure accurate and up to date highway system mileage and inventory data.

14.4 Applicability

Street Acceptance		
Federal-aid	*State-aid / VDOT Maintained*	*State-aid / LPA Maintained*
X	*X*	*X*

14.5 Summary

Construction projects frequently relocate or adjust the alignment of portions of existing roads sufficient to require the abandonment or discontinuance of the old alignment and corresponding additions of the new alignment. Such actions adjust the mileage of the Department's highway inventory or the appropriate local system inventory. Construction of a road on a new location also requires the mileage of the road to be added to the appropriate inventory.

At the completion of a construction project, any changes to the roadway length and/or location must be documented and reported and receive appropriate governing body action. Processes to report the changes vary by the highway system. Changes to the primary system, including frontage or service roads, are made by the Commonwealth Transportation Board. In such cases, the concurrence of the local governing body is desirable.

Additions and abandonments to the secondary system require action of the County Board of Supervisors, by resolution. Discontinuances of secondary roads are approved by the Commonwealth Transportation Board and concurrence by the County Board is desired. The resolution from the Board of Supervisors will authorize additions and abandonments and concur with any discontinuance. These actions are appropriately addressed simultaneously by a County Board within a single resolution and in the following specific order:

1) Orders of abandonments;
2) Requests for VDOT's acceptance of maintenance; and
3) Concurrence of any proposed discontinuances of State services.

Changes in route numbers is an administrative function of the Department and requires no formal request of the local government.

Changes to the urban system for streets that meet the criteria specified in Section 33.1-41.1 of the Code are noted in the annual update of the locality's road inventory. Changes to the local system in counties maintaining their local streets are also noted in the annual update of the locality's road inventory.

14.5.1 Process for Updating Inventory Due to Construction

For Primary and/or Secondary System Projects, the locality will provide a sketch illustrating the entire project and segments of roadway to be added, discontinued or abandoned. A table of changes will also be submitted. The table will show the type of change of each segment and include the length for that segment. For street additions, pavement width and shoulder width must also be included on the summary.

The sketch should show the centerline alignments of the affected roads before the project and after the project is complete. The sketch will then be used to show any construction related revisions and report the final disposition of each

roadway segment within the project for the entire length of the project. The sketch should identify each roadway segment within the project with the end points defined by a unique alpha or alpha-numeric designation assigned to the end points of the segment, allowing each segment to be uniquely named by its end point designations (e.g. AB, BC, K1-K2, etc.).

The sketch should reference datum points external to the project sufficient to allow termini descriptions (e.g. 0.45 miles from Rte 654) for any segment end point within the project and facilitate the point to be located on the ground without survey crew assistance. Datum points are typically intersecting VDOT or locality maintained roads, railroad crossings, and state-county-city-town jurisdictional boundary lines. The actions of addition, discontinuance, and abandonment, apply to the full width of right of way between termini measured along the alignment centerline. Any changes due to on R/W construction projects are also reported on form M4.01, Road Inventory Notification Form.

The general process for secondary projects is as follows:

- The locality submits the sketch and table to the Residency Administrator
- The Residency Administrator will ensure the information is entered in VDOT's DACHS (Database for Administering Changes in VDOT Highway Systems) application.
- DACHS will produce information that will assist in preparing the Board of Supervisors resolution authorizing the additions and abandonments and supporting the discontinuance of maintenance. The Residency Administrator will provide the necessary information or draft resolution to the county.
- Once the Board of Supervisors has passed the resolution, the locality submits the resolution to the Residency Administrator who submits the package to the Central Office Maintenance Division.
- The Maintenance Division will prepare the documents necessary for actions to be taken by the Commonwealth Transportation Board and will process all requests for inventory changes, including the addition of new streets.

- Once all actions have been completed, the maintenance division will notify the Locality and Residency.

For local street changes in Arlington and Henrico Counties, the annual inventory update process will address changes due to construction.

For Urban System Projects, the locality will prepare a U-1 form (completing all except for the last column) showing the changes in the system. The City or Town Council will pass a resolution concurring with all changes in the system.

- The Locality will submit the map, U-1 and resolution to the Residency Administrator.
- The Residency Administrator will review the information for accuracy, inspect proposed street(s), approve Form U-1 and forward these to the Local Assistance Division.
- Local Assistance Division will forward the information to Transportation and Mobility Planning Division (TMPD) for functional classification determination.
- TMPD will advise Local Assistance of the functional classification and Local Assistance will update the Urban Maintenance Inventory System
- Annually, Local Assistance will present all changes to the Urban System to the Commonwealth Transportation Board for its approval.

14.5.2 Key Submittals / Requirements

Task/Submittal / File Documentation	*Locality Responsibility*	*VDOT Responsibility*	*Submittal Timing / Recordkeeping Requirements*
For Secondary or Primary system projects			
Prepare sketch showing changes and a summary of changes	Prepare and submit sketch and summary to Residency Administrator	Residency Administrator reviews package and initiates processing including draft resolution	Should be submitted to VDOT Residency Administrator within 60 days of project acceptance
Locality Resolution supporting action	Submit locality supporting resolution to Residency Administrator	Residency Administrator will review forward package to Maintenance Division for final processing	Approved resolution should be submitted within 4 months after final acceptance
CTB resolution	N/A	Residency Administrator will submit information to Maintenance Division to draft resolution	CTB approval for individual projects is only required for changes to the Primary system and discontinuances.
For projects on Urban system and county maintained local streets			
Follow normal process for annual street inventory updates	Prepare and submit map, resolution and U-1 to Residency Administrator	Residency Administrator reviews package and initiates processing	Should be submitted to VDOT Residency Administrator prior to the deadline for new addition- usually Feb 1st.

14.5.3 Regulatory References

Code of Virginia, § 33.1-41.1
Code of Virginia, § 33.1-229
Code of Virginia, § 33.1-150
Code of Virginia, §33.1-155

F	S-V	S-L	Requirement	Chapter / Section
			14.1 Final Acceptance	
x	x	--	Assure compliance with plans and specification for the project	14.1.1
			14.1.3 Final Inspection	
x	x	--	LPA shall coordinate / perform final inspection	14.1.3
x	x	--	Identification of any corrective work / create punch list	14.1.3
x	x	--	Provide final acceptance and certification	14.1.3
x	x	--	C-5 signed / submitted	14.1.3
x	x	--	Materials certifications / documentation	13.2
x	x	--	As built Plans submitted (.pdf format)	14.1.4
			14.2 Final Invoicing	
x	x	x	Reconciliation of final quantities	14.2.3
x	x	x	Final Voucher Prepared / Submitted	14.2.3
			14.3 Street Acceptance	
x	x	x	Submit sketch / map, table of changes / U-1, resolution	14.5.1

14.5.4 Miscellaneous References

Guide to Additions, Abandonments, and Discontinuances

The guidance in this chapter is based on VDOT's Guide to Additions, Abandonments, and Discontinuances which outlines the processes and sample resolutions for changes on the secondary system. More detailed information is available in VDOT's guide to additions, abandonments and discontinuances**.**

The Urban Manual

The guidance in this chapter is based on VDOT's Urban Manual **which** outlines the processes and sample resolutions for changes on the urban system. More detailed information is available in this document.

Urban Construction and Maintenance Program Manual

Attachments – Appendices

Form U-1

Locally Administered Projects (LAP) Manual

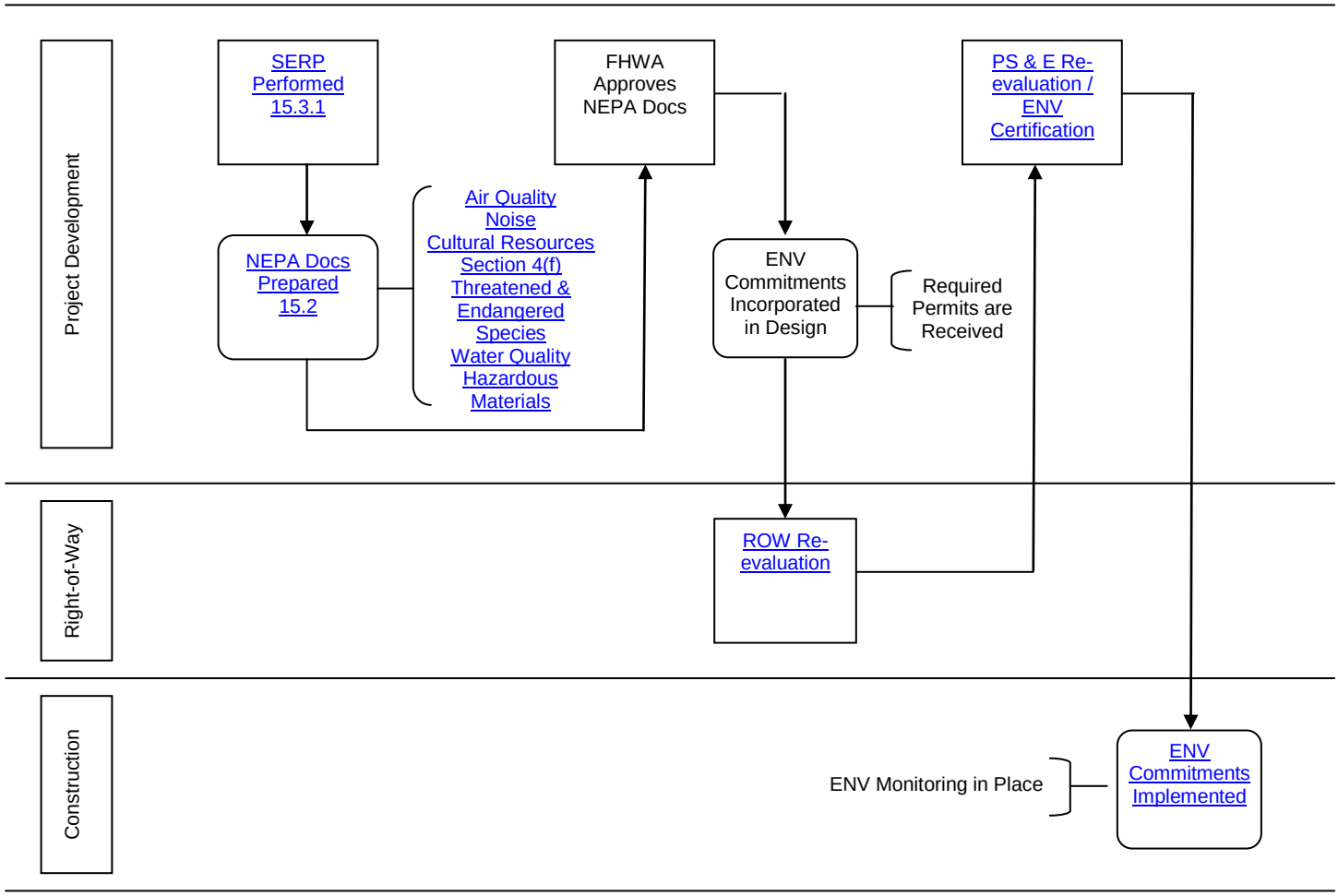
PART 3

Standards and practices for LAP

Chapter 15

Environmental Requirements

CHAPTER 15
ENVIRONMENTAL FLOW CHART



CHAPTER 15
ENVIRONMENTAL PROCEDURES

This chapter includes the following topics:

15.1 GENERAL ENVIRONMENTAL PROCEDURES
15.1.1 Introduction
15.1.2 Environmental Legislative, Regulatory, and Executive Orders References

APPENDICES
A – Tasks/Submittals/Responsibilities Table
B – Environmental Legislative, Regulatory, and Executive Orders References

15.2 NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) COMPLIANCE

SPECIAL ENVIRONMENTAL STUDIES

15.3. State Environmental Review Process (SERP)
15.4 Cultural Resources
15.5 Section 4(f) Evaluations
15.6 Noise Studies and Abatement
15.7 Air Quality
15.8 Water Quality Permits
15.9 Threatened and Endangered Species
15.10 Hazardous Materials

15.11 ENVIRONMENTAL RE-EVALUATIONS & CERTIFICATION

15.12 ENVIRONMENTAL MONITORING DURING CONSTRUCTION

15.1 GENERAL ENVIRONMENTAL PROCEDURES

15.1.1 Introduction

Transportation projects require compliance with a wide variety of state and federal environmental laws, regulations, and executive orders. The project scope and associated environmental impacts will determine the specific laws, regulations and executive orders that must be addressed in detail during design and construction. For federal-aid LPA administered projects, FHWA has set minimum oversight expectations which can be found in VDOT's plan for the oversight of environmental elements of locally administered projects. The environmental requirements in the following chapters reflect these expectations. Except as otherwise noted, non federal-aid projects generally will require a certification of compliance as noted in chapter 5, instead of meeting the federal-aid requirements emphasized in this manual.

The most common environmental requirements for transportation projects are explained in greater detail in the sections that follow. However, LPA's may encounter additional environmental requirements from time to time on individual projects. VDOT District Environmental Managers and their technical staff are available to support and assist the LPA's.

In order to ensure that VDOT and the LPA are clear regarding environmental expectations, VDOT recommends that an environmental kick-off meeting be held. This may be as simple as a telephone conversation with the VDOT project coordinator and Environmental staff or it may occur within a formal scoping meeting.

At the kick-off meeting, the VDOT District Environmental Manager (or designee) will provide the LPA with a completed copy of the Environmental Scoping Recommendations form, as well as other documentation applicable to the project. The information on this form will assist the LPA in determining what the environmental requirements are and assist in determining their needs for consultant assistance, if required.

For LPA's unfamiliar with many of the technical aspects of environmental analyses, VDOT can provide assistance reviewing scopes of services or determining appropriateness of consultants' proposals for environmental work, in accordance with Chapter 11, Consultant Services, of this manual.

15.1.2 Summary of Requirements/Submittals Table

Appendix A provides a list of the required submittals that must be completed to adequately address the range of environmental issues associated with a typical federal-aid project.

The table also includes timing for those submittals, general VDOT review times, and LPA/VDOT responsibilities associated with those tasks and submittals. Appendix 15.1-A is intended to provide a list of all required LPA submittals and primary LPA/VDOT tasks. It is **not** intended to provide details of all activities that must take place prior to or after each submittal or task identified in the table.

APPENDIX 15.1 – A
Summary Table of Primary Tasks/Responsibilities

Task/Submittal/ File Documentation	LPA Responsibility	VDOT Responsibility	Submittal Timing/Recordkeeping Requirement/Review Timeframe
EQ-429 – Project Definition form	Submit a completed EQ-429 with project location map	Enter into CEDAR	EQ-429 submitted by LPA to VDOT prior to project scoping or at Scoping Meeting
State Environmental Review Process/PEI Exemption / / Preliminary Environmental Inventory (PEI) construction >$500,000	N/A	PEI exemption notification to LPA; or complete State Agency Coordination; provide PEI to LPA	VDOT PEI to LPA within 30 – 90 days
NEPA Concurrence Form	Submit completed form to VDOT (not required for PCE)	Coordinate with FHWA; convey level of NEPA document to LPA; enter into CEDAR	LPA submits to VDOT prior to beginning NEPA document; response from FHWA in 5 days
NEPA – BCE/PCE/CE	Complete prior to Public Hearing and any R/W acquisition	Review/coordinate with FHWA; provide approved document back to LPA; enter into CEDAR	LPA will submit draft PCE/CE 60 days prior to Public Hearing; VDOT will review and notify the LPA within: PCE - 5 days CE - 10 days BCE – 1 day

Task/Submittal/ File Documentation	LPA Responsibility	VDOT Responsibility	Submittal Timing/Recordkeeping Requirement/Review Timeframe
NEPA – EA	Complete prior to Public Hearing and any R/W acquisition	Review/coordinate with FHWA for approval of draft EA; FHWA issues FONSI; enter into CEDAR	Draft EA must be submitted by LPA to VDOT 60 days prior to public release and available 30 days prior to Public Hearing. VDOT review - 15 days for each individual section
Section 106 Process (Cultural Resources)	Coordinate with VDHR, submit technical reports, and obtain effect determination letter or MOA if required; submit documentation to VDOT	Enter into CEDAR	Effect determination concurrence (or MOA) submitted by LPA to VDOT prior to/or concurrent with submittal of NEPA documentation.
Noise analysis	Submit draft and final reports to VDOT	Determine if Type I; review/comment on Report; plan for State Noise Abatement Committee meeting, as applicable; enter into CEDAR	LPA submits to VDOT prior to completing NEPA documentation
Air Quality Studies	Submit draft and final reports to VDOT	Review /comment on Report; enter into CEDAR	LPA submits to VDOT prior to completing NEPA documentation
EQ-121 (Hazardous Materials Due Diligence form)	Complete necessary studies and submit completed/signed forms to VDOT.	Provide EQ-121 at kick off/scoping meeting. Enter EQ-121 into CEDAR	LPA submits completed form prior to requesting R/W authorization.
Natural Resources	Coordinate with regulatory agencies to determine if permits /clearances are necessary	Received regulatory agency correspondence and copies of any permits/clearances	Locality submits to VDOT correspondence/permits prior to VDOT's completion of Environmental Certification/PS&E Re-evaluations
Environmental Certification and Reevaluation @ R/W	Notify VDOT PC ready for authorization at R/W and/or construction advertisement	R/W reevaluation form/PS&E reevaluation form/Environmental Certification form completed by VDOT;	VDOT completes Re-evaluations and Certification within 15 business days

Task/Submittal/ File Documentation	LPA Responsibility	VDOT Responsibility	Submittal Timing/Recordkeeping Requirement/Review Timeframe
authorization and Construction Advertisement		provided to LPA; enter into CEDAR	

APPENDIX 15.1 -B

ENVIRONMENTAL LEGISLATIVE, REGULATORY, AND EXECUTIVE ORDERS REFERENCES

National Environmental Policy Act (NEPA)

- National Environmental Policy Act, 42 U.S.C. 4332(2)(C) PL 91-910
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A legacy for Users (SAFETEA-LU) PL 109-59
- Clean Air Act, as amended, 42 U.S.C. 1857 PL 95-95
- Federal Aid Highway Act of 1970 23 U.S.C. 109 (h)(i)(j)
- Federal Highway Administration's Noise Regulations, 23 CFR Part 772
- Transportation Conformity Regulations, 40 CFR Parts 51 and 93
- National Historic Preservation Act (16 U.S.C. 470f)
- Section 4(f) 23 CFR 774
- Endangered Species Act, 1973, as amended, 16 U.S.C. 1531-15443
- Farmland Protection Policy Act, 1981, 7 C.F.R. 658
- Section 6(f) of the Land and Water Conservation Fund Act (Section 6(f)) 16 U.S.C. 4601-8(f)
- Transportation Enhancement Activities, 23 U.S.C. 101(a)(35); 23 U.S.C. 133(b)
- Federal Highway Administration Regulations Governing the Preparation of Environmental Documents, 23 C.F.R. 771
- Regulations for Implementing the Procedural Provision of the National Environmental Policy Act, 1978, 40 C.F.R. 1500-1508
- National Recreational Trails Program, 23 U.S.C. 206
- National Scenic Byways Program, 23 U.S.C. 162
- Procedures for Abatement of Highway Traffic Noise, Federal Aid Program Guide, 23 C.F.R. 772
- Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f; 36 C.F.R. Part 800; 36 C.F.R. Part 60; 36 C.F.R. Part 63
- Section 110 of the National Historic Preservation Act, 16 U.S.C. 470h-2; 36 C.F.R. 78
- Archaeological Resources Protection Act, 16 U.S.C. 470 aa-mm; 32 C.F.R. 229; 36 C.F.R. 79; 36 C.F.R. 296; 43 C.F.R. 7
- Wilderness Act, 36 C.F.R. 293; 43 C.F.R., 8560; 50 C.F.R. 35
- Wild and Scenic Rivers Act, 36 C.F.R. 297
- Uniform Relocation Assistance and Real Property Acquisition Act of 1970, 49 C.F.R. 24
- Title VI of the Civil Rights Act of 1964, 49 C.F.R. 21; 23 C.F.R. 200
- Resource Conservation and Recovery Act of 1976 (RCRA), 40 CFR §260 et seq.
- Hazardous and Solid Waste Amendments (HSWA) of 1984

- Emergency Planning and Community Right to Know Act (EPCRA) 40 CFR Part 355
- Comprehensive Environmental Response Compensation and Liability Act, 40 CFR §300 et seq. and 29 CFR §1910
- Superfund Amendments and Reauthorization Act (SARA), 40 CFR §300 et seq.
- Hazardous Materials Transportation Act (HMTA), 49 CFR 171-180
- Occupational Safety and Health Act of 1970, 29 U.S.C §651-678
- Federal Water Pollution Control Act, Public Law 101-508 §1388 et seq
- Safe Drinking Water Act of 1974, 40 CFR §104 et seq.
- Clean Air Act, 40 CFR §§60 and 763 et seq.
- Toxic Substances Control Act (TSCA) 40 CFR §761
- Federal Insecticide, Fungicide, Rodenticide Act (FIFRA), 86 Sta. §973 et seq.
- Fish and Wildlife Coordination Act ,16 U.S.C 661-666 PL 93-205
- Clean Water Act, 33 U.S.C 1251-1376
- Rivers and Harbors Act of 1899, 33 U.S.C 401 et. seq
- Coastal Zone Management Act (1972), 16 U.S.C
- Tennessee Valley Act of 1933
- Endangered Species Act, 1973, as amended, 16 U.S.C. 1531-15443
- Executive Order 13112: Invasive Species
- Executive Order 11988: Floodplain Management, as amended by Executive Order 12148
- Executive Order 12898: Federal Actions to Address Environmental Justice in Low Income Populations and Minority Populations, as amended by Executive Order 12948
- Executive Order 11990: Protection of Wetlands
- Executive Order 11514: Protection and Enhancement of Environmental Quality
- Executive Order 12630: Governmental Actions and Interference with Constitutionally Protected Property Rights
- Executive Order 13166: Improving Access to Services for Persons with Limited English Proficiency
- Executive Order 13186: Responsibilities of Federal Agencies to Protect Migratory Birds
- Executive Order 13195: Trails for America in the 21st Century
- Executive Order 13352: Facilitation of Cooperative Conservation
- Executive Order 13392: Improving Agency Disclosure of Information
- Executive Order 13406: Protection the Property Rights of the American People

State Environmental Review Process

- Code of Virginia Section 10.1-1188 (B)

Cultural Resources

- Section 106 of the National Historic Preservation Act, 16 U.S.C 470f
- Protection of Historic Properties, 36 CFR Part 800

- National Environmental Policy Act, 42 U.S.C 4321-4347
- Environmental Impact Reports of State Agencies, Code of Virginia 10.1-1188-1192

Section 4(f)

- 23 CFR 774
- Title 49 U.S.C. Section 303
- Title 23 U.S.C. Section 138

Noise Studies and Abatement

- National Environmental Policy Act, 42 U.S.C 4332(2)(C) PL 91-910
- Noise Control Act of 1972, 42 U.S.C Chapter 65 Section 4901 et seq.
- Federal Aid Highway Act of 1970, 23 U.S.C 109(h)(i)(j)
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- Federal Highway Administration's Noise Regulations, 23 CFR 772
- Section 33.1-12 of the Code of Virginia.
- State Noise Abatement Policy

Air Quality

- National Environmental Policy Act, 42 U.S.C 4332(2)(C) PL 91-910
- Clean Air Act, as amended, 42 U.S.C 1857 PL 95
- Federal Aid Highway Act of 1970, 23 U.S.C 109(h)(i)(j)
- Energy Policy Act, 42 U.S.C 15801
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU)
- Transportation Conformity Regulations, 40 CFR Parts 51 (Implementation), 81 (Designations), and 93 (Transportation Conformity)
- Statewide Transportation Planning Regulations, 23 CFR Part 450
- Interim Guidance on Air Toxic Analysis in NEPA Documents – FHWA Guidance Memorandum – February 3, 2006
- Memorandum of Agreement with FWHA Regarding Streamlining Project Level Carbon Monoxide Air Quality Studies, 2009
- Virginia Air Pollution Control Law
- State Regulation for Transportation Conformity, 9 VAC 5 Chapter 151

Water Quality Permits

- National Environmental Policy Act, 42 U.S.C 4321-4347
- Fish and Wildlife Coordination Act ,16 U.S.C 661-666 PL 93-205
- Clean Water Act, 33 U.S.C 1251-1376
- Rivers and Harbors Act of 1899, 33 U.S.C. 403

- Section 106 of the National Historic Preservation Act, 16 U.S.C. 470f
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Virginia General Permit, Code of Virginia, 28.2-103 and 28.2-1203
- Coastal Zone Management Act, 16 U.S.C 1451-1465
- Endangered Species Act, 16 U.S.C 1531-1544
- Tennessee Valley Act of 1933, 16 U.S.C. 831
- Virginia Stormwater Management Program 2005
- Virginia Water Protection Permit Regulations, Title 62.1-44.15.5
- Wild and Scenic Rivers Act, 16 U.S.C. 1278
- Virginia Scenic Rivers Act, Code of Virginia, 10.1-400 to 418
- Virginia Endangered Plant and Insect Species Act, Code of Virginia, 3.1-1020 to 1030
- Virginia Department of Game and Inland Fisheries manages endangered and threatened fish and wildlife (except insects) in Virginia, Code of Virginia, 29.1-564
- Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks (1995)
- Virginia Erosion and Sediment Control Law and Regulations, Code of Virginia 10.1-561 et seq.
- Chesapeake Bay Preservation Act, Code of Virginia, 10.1-2100 to 2116
- Virginia Cave Protection Act, July 1979, as amended, July 1984, Code of Virginia 10.1-1000 to 1008
- Natural Area Preserves Act, Code of Virginia, 10.1-208 to 217

Threatened and Endangered Species

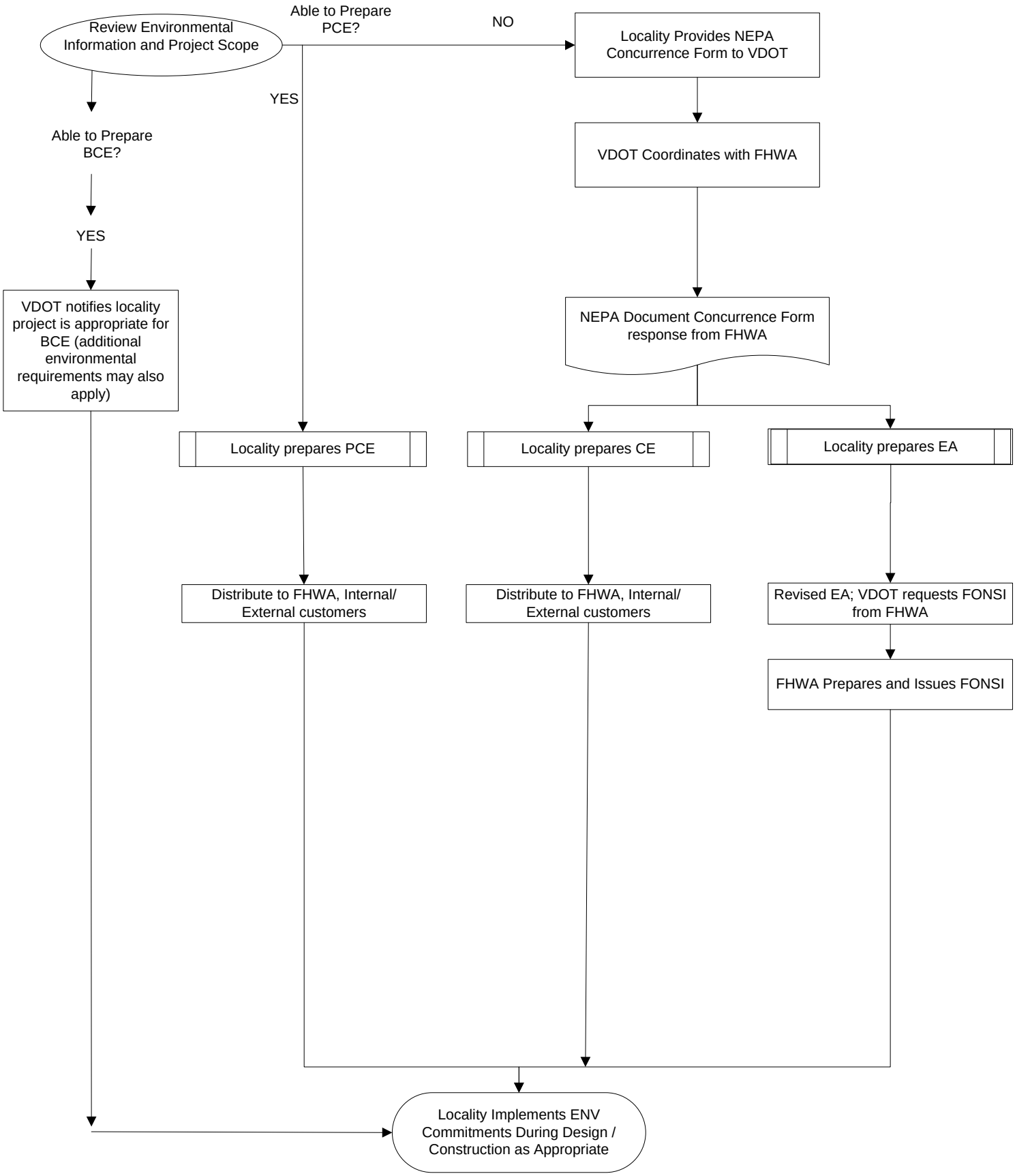
- Endangered Species Act, 16 U.S.C 1531-1544
- National Environmental Policy Act, 42 U.S.C 4321-4347
- Fish and Wildlife Coordination Act ,16 U.S.C 661-666 PL 93-205
- Clean Water Act, 33 U.S.C 1251-1376
- Rivers and Harbors Act of 1899, 33 U.S.C. 403
- Executive Order 11988, Floodplain Management
- Executive Order 11990, Protection of Wetlands
- Coastal Zone Management Act, 16 U.S.C 1451-1465
- Tennessee Valley Act of 1933, 16 U.S.C. 831
- Wild and Scenic Rivers Act, 16 U.S.C. 1278
- Federal Guidance for the Establishment, Use, and Operation of Mitigation Banks (1995)
- Migratory Bird Treaty Act 16 U.S.C Sections 703-712
- Bald and Golden Eagle Protection Act RIN 1018-AV11
- Virginia Stormwater Management Program 2005
- Virginia Water Protection Permit Regulations, Title 62.1-44.15.5
- Virginia Scenic Rivers Act, Code of Virginia, 10.1-400 to 418

- Virginia Endangered Plant and Insect Species Act, Code of Virginia, 3.1-1020 to 1030
- Virginia Department of Game and Inland Fisheries manages endangered and threatened fish and wildlife (except insects) in Virginia, Code of Virginia, 29.1-564
- Virginia Erosion and Sediment Control Law and Regulations, Code of Virginia 10.1-561 et seq.
- Virginia General Permit, Code of Virginia, 28.2-103 and 28.2-1203
- Chesapeake Bay Preservation Act, Code of Virginia, 10.1-2100 to 2116
- Virginia Cave Protection Act, July 1979, as amended, July 1984, Code of Virginia 10.1-1000 to 1008
- Natural Area Preserves Act, Code of Virginia, 10.1-208 to 217

Hazardous Materials

- Resource Conservation and Recovery Act of 1976 (RCRA), 42 U.S.C 6901-6991k
- Hazardous and Solid Waste Amendments (HSWA) of 1984
- Emergency Planning and Community Right to Know Act (EPCRA), 40 CRF 355
- Comprehensive Environmental Response Compensation and Liability Act (CERCLA), 40 CFR 300 et seq. and 29 CFR 1910
- Superfund Amendments and Reauthorization Act (SARA), 40 CFR 171-180
- Hazardous Materials Transportation Act (HMTA), 49 CFR 171-180
- Occupational Safety and Health Act of 1970, 29 U.S.C 651-678
- Federal Water Pollution Control Act, PL 101-508, 1388 et seq.
- Clean Water Act of 1977 and Safe Drinking Water Act of 1974, 40 CFR 104 et seq.
- Clean Air Act, 42 U.S.C 7401-7671q
- Toxic Substances Control Act (TSCA), 40 CFR 761
- Virginia Hazardous Waste Management Regulation, 9 VAC 25-31-10 et seq. and 9 VAC 25-260 et seq.
- Virginia Solid Waste Management Regulations, 9 VAC 20-80 et seq.
- Virginia Water Control Board Regulations, 9 VAC 25-91-10 et seq. and 25-280-10 et seq.
- National Environmental Policy Act of 1969, 42 U.S.C 4321-4347
- Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C 136 et seq.

15.2 NATIONAL ENVIRONMENTAL POLICY ACT



15.2.1 Introduction

This section provides a general overview of the National Environmental Policy Act (NEPA) and the process a LPA must follow to ensure successful completion of the NEPA process. By regulation, FHWA retains NEPA approval authority and requires VDOT oversee compliance with NEPA on its behalf, even if a project is administered by a local government. While a LPA is required to perform all necessary environmental investigations and prepare all necessary documentation demonstrating compliance with NEPA, the FHWA must provide all approvals for NEPA actions. Accordingly, close coordination between the LPA, their consultant, and VDOT is extremely important during the NEPA process to ensure that project delays are avoided.

Transportation projects differ in type, size, complexity, and potential to impact the environment. Transportation project impacts on the natural and human environment can vary from very minor to significant. To account for the variability of project impact, three basic "classes of action" are allowed and determine how compliance with NEPA is carried out and documented:

- Categorical Exclusions (CE's) are issued for actions that do not individually or cumulatively have a significant effect on the environment. CE's can be concluded typically within six to nine months time. There are also project categories that may be addressed as Programmatic Categorical Exclusions (PCE's) or Blanket Categorical Exclusions (BCE's). PCE's may typically be concluded in several weeks time and BCE's may be concluded in less time. Most LPA administered projects will fall into this level of NEPA action.
- An Environmental Assessment (EA) is prepared for actions in which the significance of the environmental impact is not clearly established. Should environmental analysis and interagency review during the EA process find a project to have no significant impact on the quality of the environment, a Finding of No Significant Impact (FONSI) is issued. EA/FONSI's can be concluded typically within 16 months.

- An Environmental Impact Statement (EIS) is prepared for projects where it is known that the action will have a significant effect on the environment. EIS documents routinely take several years to complete.

This chapter will focus on the requirements for BCE's, PCEs, CEs, and EAs. When it is determined an EIS will be required for a LPA project, a separate memorandum of agreement, outlining specific actions and requirements of VDOT and the LPA will be developed.

15.2.2 Applicability

- All federal-aid projects and projects developed to qualify for federal-aid.
- Projects which are not federal-aid or developed to qualify for federal-aid but involve another federal action (such as a federal permit or use of federal property) require compliance with NEPA; however, VDOT does not provide oversight or have approval authority for actions required by agencies other than FHWA.

15.2.3 NEPA Concurrence

Prior to the initiation of environmental studies, the LPA must submit a NEPA Concurrence form to the VDOT project coordinator. It is recommended that the LPA discuss the NEPA class of action with the VDOT District Environmental Coordinator when completing this form.

It is important to remember that only CE's, EA's, and EIS's require preparation of a NEPA Concurrence form; BCE's and PCE's do not.

VDOT requires the use of a standardized NEPA Concurrence form.

VDOT has developed guidance on the use of the NEPA Concurrence form which is available here or through the District Environmental Section.

VDOT Responsibilities:

- *After receiving the NEPA Concurrence Form, the project coordinator will forward the form to the District Environmental Manager for review and concurrence.*
- *The VDOT District Environmental Manager will request FHWA concurrence or request additional information from the LPA within 5 business days. The VDOT project coordinator will forward the information request or concurrence to the LPA and facilitate further consultations, if necessary.*
- *The approved NEPA Concurrence form will be uploaded into CEDAR.*

15.2.4 Categorical Exclusions

15.2.4.1 **Blanket Categorical Exclusions (BCE's)**

VDOT and FHWA signed a revised Programmatic Categorical Exclusion Agreement on September 17, 2010 which offers further NEPA documentation efficiencies for certain categories of transportation projects. The Agreement creates Blanket Categorical Exclusions (BCE's) which are actions that require no further NEPA approval or documentation for the action. VDOT will notify the LPA if their project qualifies as a BCE. No further NEPA documentation is needed by the LPA. There may be other state/federal environmental laws or regulations that are applicable to the project (e.g. water quality permit acquisition).

15.2.4.2 Programmatic Categorical Exclusions (PCE's)

There are a variety of project types which may qualify for preparation of a Programmatic Categorical Exclusion. The VDOT-FHWA Programmatic Categorical Exclusion Agreement list identifies these types of projects and provides the requirements for and restrictions on the use of these PCEs.

To complete a PCE, the LPA must determine through coordination with various regulatory agencies that the project does not require an individual permit from the Coast Guard or Army Corps of Engineers, does not have relocations or substantial R/W impacts, does not use land from a Section 4(f) resource (including de minimis findings), and does not have an Adverse Effect on Historic Properties (see section 15.4.8). The sources of these determinations are based on 15 criteria outlined and documented on the standardized PCE Form, with the LPA's submittal of additional supporting documentation to VDOT.

VDOT requires the use of a standardized PCE form.

VDOT has developed guidance on the completion of the PCE form which is available here or through the District Environmental Section.

15.2.4.3 Categorical Exclusions (CE's)

Other actions which are not identified in the Programmatic Categorical Exclusion Agreement, but based on experience do not involve significant environmental impacts require preparation of a Categorical Exclusion, with the submittal of additional documentation. A list of these actions is contained in 23 CFR 771.117(d) .

VDOT requires the use of a standardized CE form.

VDOT has developed guidance on the completion of the CE form which is available here or through the District Environmental Section.

15.2.4.4 Submitting the PCE/CE

The LPA must submit a draft PCE or CE, along with the supporting documentation, to the VDOT project coordinator.

VDOT concurrence with the completed PCE or CE, and supporting documentation, must be received prior to announcement of a public hearing or posting of willingness and prior to Right of Way Authorization.

PCE's will require a minimum of 5 business days for a quality assurance review. Complex and more detailed CE's may require additional review time. The LPA may want to schedule additional time for a consultation meeting with the District Environmental Section.

The LPA will address comments provided, if necessary, and will submit a final PCE or CE, including an electronic copy, to the project coordinator.

VDOT Responsibilities:

- *During PCE/CE development, the project coordinator and the District Environmental Section may provide support to the LPA as requested, to ensure a quality PCE/CE will be submitted. The project coordinator will forward the completed PCE/CE to the District Environmental Manager for a quality assurance review.*
- *For most PCE/CE's, the VDOT Environmental staff will provide a concurrence or make a request for additional information within 5 business days for a PCE and 10 business days for a CE. When additional review time or consultation with the LPA is necessary, the Environmental Section will promptly notify the project coordinator and the LPA.*
- *The District Environmental Office will upload documentation into CEDAR.*

15.2.5 Environmental Assessments

Because of the complexity involved with the preparation of an EA, close coordination with the VDOT Environmental Coordinator throughout the development of the EA is essential.

To ensure concurrence with the Purpose & Need (P/N) and the Alternatives Analysis sections of the documents, FHWA requires those portions of the EA be submitted for review, as they are completed. This early review by VDOT and FHWA will expedite the overall approval process for the EA. A link to an example of a P/N chapter is found here. An example of an Alternatives Analysis chapter can be found here.

For additional guidance on the development of an EA, click here.

VDOT does not require the use of a standardized form for EA's; however, the VDOT Environmental Coordinator can provide examples of Environmental Assessments for assistance with formatting. The LPA should note that FHWA allows no consultant logos in NEPA documentation.

The LPA must submit the EA which has addressed any comments on the P/N and Alternative Analysis sections, along with supporting documentation, to the VDOT project coordinator. Supporting documentation for the EA may include technical reports for air quality, noise analysis, cultural resources, natural resources technical reports, hazardous materials investigations, and agency coordination letters.

FHWA's written approval of the EA for public availability must be received prior to announcement of a public hearing or posting of willingness.

EA's will require a minimum of 10 business days for a quality assurance review. Complex and more detailed EA's may require additional review time. The LPA may want to schedule additional time for a consultation meeting with the District Environmental Section.

The LPA will address comments provided, if necessary, and will submit the revised EA, including an electronic copy, to the project coordinator.

After the public hearing, the LPA will have to revise the EA based on public comments and make the written request for a Finding of No Significant Impact (FONSI). The LPA's draft request should be provided to the VDOT project coordinator for the final written request to FHWA. Once FHWA's FONSI has been received, the LPA will be provided with an electronic copy.

VDOT Responsibilities:

- *During EA development, the project coordinator and the District Environmental Section may provide support to the LPA as requested, to ensure a quality EA will be submitted. The project coordinator will forward the completed draft P/N section, Alternatives Analysis section, and EA to the District Environmental Manager for a quality assurance review.*
- *For most reviews, the Environmental Section will generally provide a concurrence or comments/request for additional information within 10 business days. When additional review time or consultation with the LPA is necessary, the Environmental Section will promptly notify the project coordinator and LPA.*
- *The District Environmental Office will upload all required documentation into CEDAR.*

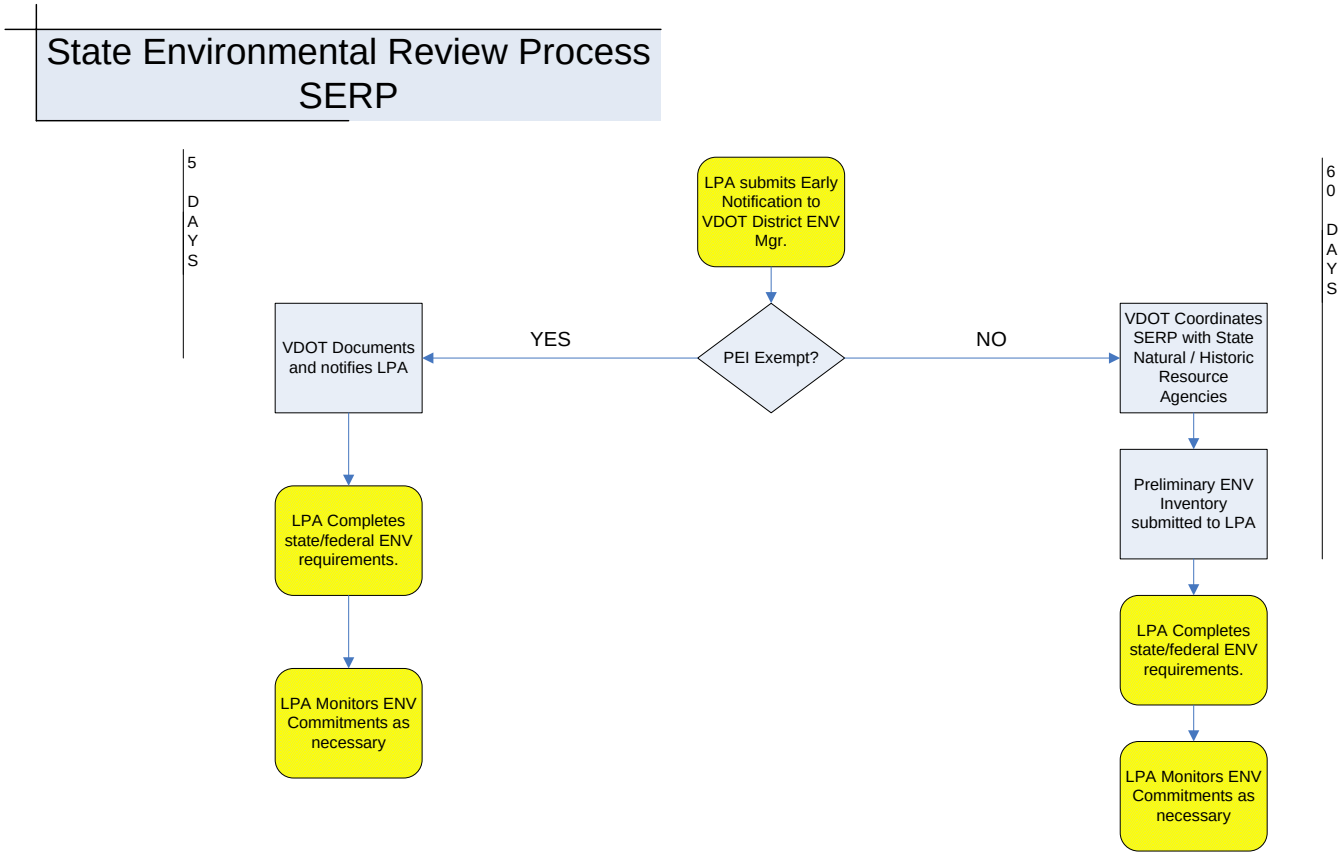
15.2.6 Documentation

Another equally important aspect of compliance with state and federal laws, regulations and Executive Orders is written documentation. LPA will provide VDOT with copies of all documentation evidencing compliance with applicable laws, regulations and executive orders. This will allow any project specific audits or investigations of environmental compliance to be efficiently and successfully addressed. The American Association of State Highway and Transportation Officials (AASHTO) provide an excellent discussion on maintaining and preparing an administrative record for environmental compliance (AASHTO Center for Environmental Excellence).

15.2.7 References

- NEPA Concurrence form and Guidance
- PCE form and Guidance
- CE form and Guidance
- Purpose & Need
- Alternatives Analysis

15.3 STATE ENVIRONMENTAL REVIEW PROCESS (SERP)



15.3.1 Introduction

The Code of Virginia directed the Secretaries of Natural Resource and Transportation to establish procedures for review and comment on highway construction projects. The Memorandum of Agreement (MOA) between those Secretariats implemented a streamlined process for accomplishing this, known as the State Environmental Review Process (SERP).

The SERP provides Virginia state natural and historic resource agencies the opportunity to provide environmental resource information and comment on transportation construction projects at the earliest possible stage of development.

The resource information provided in the Preliminary Environmental Inventory (PEI) assists the LPA, VDOT, and the state resource agencies in identifying any known environmental issues early in project development.

15.3.2 Applicability

- Only applicable to state funded construction projects estimated to cost more than $500,000.

15.3.3 SERP Coordination Process

The LPA will submit a Project Definition form (EQ-429) and a topographic map depicting the project limits after the Project Administration Agreement is completed and once the preliminary project scope is determined.

The LPA should be sure to be as inclusive as possible when providing project information. It is best to include any project features that may be included in the project, even if a final determination of those project features has not been made.

VDOT Environmental staff will determine if the project is exempt from preparation of a PEI. If so, the LPA will be notified by VDOT. However, the LPA is still required to obtain any environmental clearances necessary to satisfy state/federal regulatory requirements.

If a project is determined to require preparation of a PEI, VDOT Environmental staff will contact state resource agencies with the information and project description provided by the LPA. State resource agencies will generally provide comments within 45 days.

VDOT Environmental staff will consolidate agency comments and prepare a "Preliminary Environmental Inventory" for the LPA's use. An example of a completed PEI is found here.

The PEI will not include comments from federal resource agencies (such as US Fish and Wildlife) nor will it provide information on specific water quality permitting requirements. The PEI is solely intended as a preliminary environmental inventory from state resource agency databases. The PEI does not take the place of direct coordination with regulatory agencies to resolve project impacts.

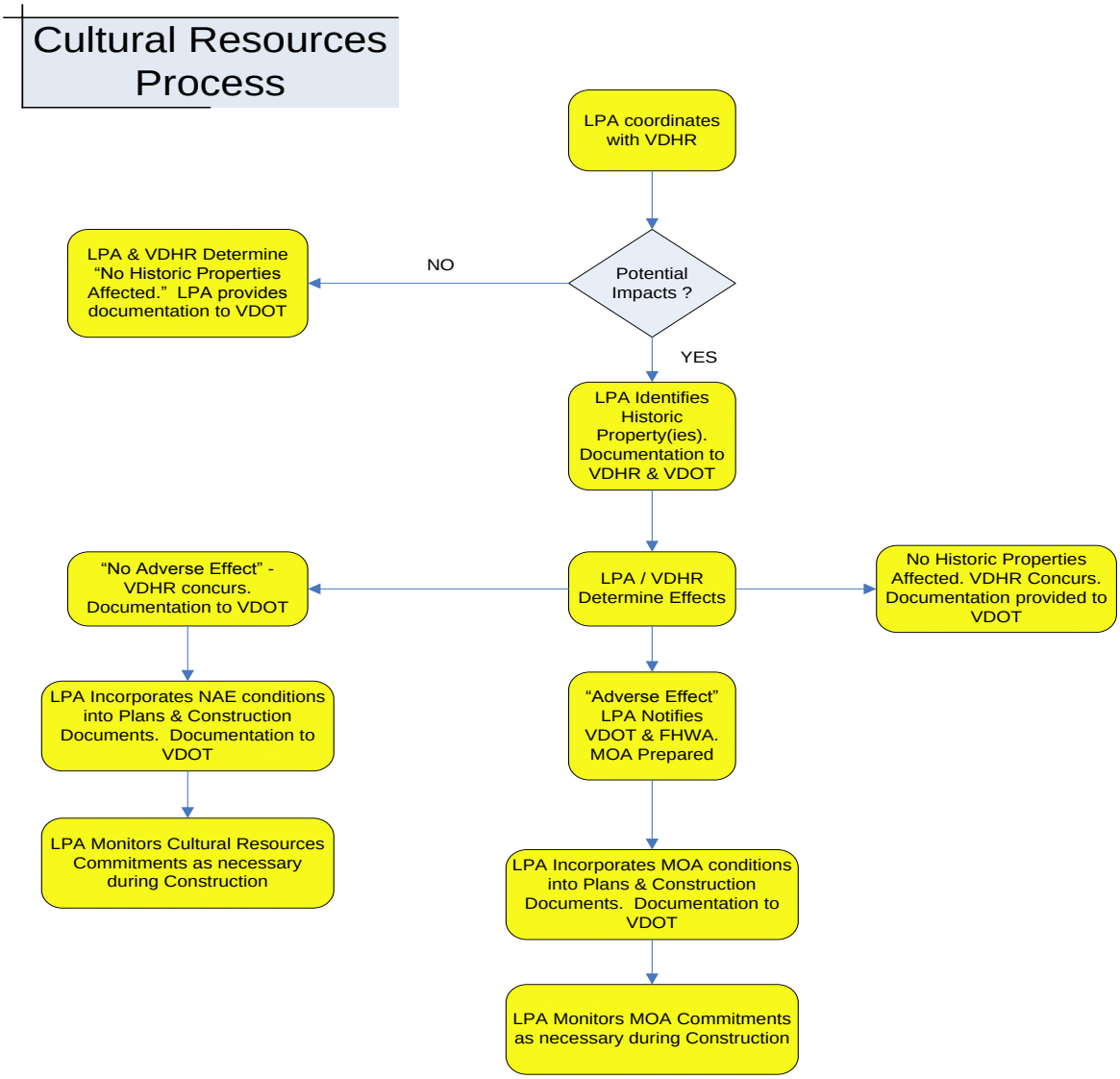
VDOT Responsibilities:

- *The VDOT project coordinator will input the information from the Project Definition form (EQ-429) into CEDAR.*
- *VDOT Environmental Staff will coordinate with regulatory agencies and prepare a PEI and a memorandum outlining any required environmental commitments, generally between 30 and 90 days after submittal of the Project Definition form (EQ-429).*
- *Where a project is exempt from preparation of a PEI, a PEI exemption will be completed within 5 business days after the project coordinator completes the CEDAR Project Definition form.*

15.3.4 References

- SERP Memorandum of Agreement
- Project Early Notification form (EQ-429)
- Preliminary Environmental Inventory (example)

15.4 CULTURAL RESOURCES



15.4.1 Introduction

A cultural resource review, performed in accordance with Section 106 of the National Historic Preservation Act, is required for any federal undertaking to include projects receiving federal-aid or projects requiring a federal permit (such as a water quality permit from the US Army Corps of Engineers or the Tennessee Valley Authority). The regulations that implement Section 106 (36 CFR Part 800) provide the process steps for considering the effects of an undertaking on historic properties. This process must be conducted in consultation with the State Historic Preservation Office (SHPO; in Virginia, the Virginia Department of Historic Resources), federally recognized Indian tribes, representatives of local government, other interested parties, the general public, and in some cases, the Advisory Council on Historic Preservation (ACHP) (the federal entity that oversees implementation of Section 106).

The major steps in the Section 106 process are:

(1) Identification of consulting/interested parties;

(2) Definition of the geographic area within which a project may directly or indirectly cause changes in the character or use of historic properties;

(3) Identification of historic properties within the Area of Potential Effects (APE);

(4) Assessment of project effects on historic properties;

(5) Consideration of alternatives or modifications to project design that would avoid or minimize adverse effects; and

(6) Resolution of any remaining adverse effects through the federal agency's execution of a Memorandum of Agreement with the SHPO and other parties.

For federal-aid transportation projects in Virginia, the Section 106 process is used to meet the requirements of the National Environmental Policy Act (NEPA) for ensuring that historic preservation is given appropriate consideration in project planning and development.

Cultural resource review of state-funded transportation projects (that do not require a federal permit) is conducted pursuant to §10.1-1188-1192, Code of Virginia and the SERP MOA. If cultural resource issues on transportation projects without federal involvement (funding or permit) cannot be resolved during the SERP, they are investigated and coordinated further with the VDHR in a manner consistent with 36 CFR Part 800 and the Secretary of the Interior's Standards and Guidelines for Archeology and Historic Preservation. The process followed to ensure project effects on historic properties are considered on state-funded projects is consistent with the federal Section 106 process, but does not involve the ACHP or a federal sponsor.

The Virginia Department of Historic Resources maintains a Web site that contains valuable information regarding cultural resource coordination requirements.

15.4.2 Applicability

- The requirements of this chapter are applicable to federal-aid projects and projects developed as federally eligible.
- State funded projects requiring a federal water quality permit.

15.4.3 Section 106 Coordination Process

After completion of SERP, the VDOT District Environmental Manager will provide the LPA information on known historic resources within the vicinity of the project obtained from the VDHR's Data Sharing System. After receiving information on known historic resources, the LPA is responsible for identifying consulting parties, defining the APE, conducting technical studies needed to identify historic properties within the APE, assessing the project's effects on historic properties, and coordinating these findings with VDHR and other consulting parties. The LPA can begin coordination with VDHR as soon as a project scope is ready.

15.4.4 Effect Determinations

The LPA is required to provide VDOT with copies of the technical reports (two hard copies and an electronic copy in PDF format) and written correspondence from VDHR, providing VDHR's concurrence with the LPA's findings and effect determinations.

The outcome of coordination with VDHR will be one of several effect determinations: No Historic Properties Present or Affected; No Adverse Effect on Historic Properties (with or without conditions); or Adverse Effect on Historic Properties. When the effect is adverse, a Memorandum of Agreement to resolve adverse effects must be executed.

The LPA should be mindful that receiving an Adverse Effect will require preparation of a CE (instead of a PCE) to comply with NEPA.

Additionally, the LPA should consider whether a historic property may also require preparation of a Section 4(f) evaluation (see 15.5).

15.4.5 Memorandum of Agreement

When an LPA reaches an Adverse Effect determination with VDHR, the VDOT project coordinator must be notified. VDOT and FHWA will participate in the development and execution of the Memoranda of Agreement (MOA). The US Army Corps of Engineers or Tennessee Valley Authority may also be consulting parties for projects with federal permits.

15.4.6 Post Consultation/Construction

The LPA is required to implement commitments required by VDHR during design and/or construction to avoid, minimize, or mitigate effects on historic properties. The LPA must provide VDOT documentation evidencing commitments have been implemented.

If any design changes occur, which affect the project scope reviewed by VDHR, the LPA must coordinate again with VDHR to address any change in effects to historic properties. The LPA must provide VDOT documentation demonstrating VDHR's continued concurrence with the LPA's findings and determination.

If previously unidentified archaeological sites are encountered during project construction, the LPA must address these in accordance with Section 107.14(d) of the VDOT's *Road and Bridge Specifications* and 36 CFR 800.13.

15.4.7 VDHR Permits

Regardless of funding source, when the LPA must conduct archaeological testing or excavations within state-owned right of way, it must first secure a permit from VDHR pursuant to §10.1-2302 of the Code of Virginia. Permits are issued through the VDHR's Division of Resource Services and Review.

VDOT Responsibilities:

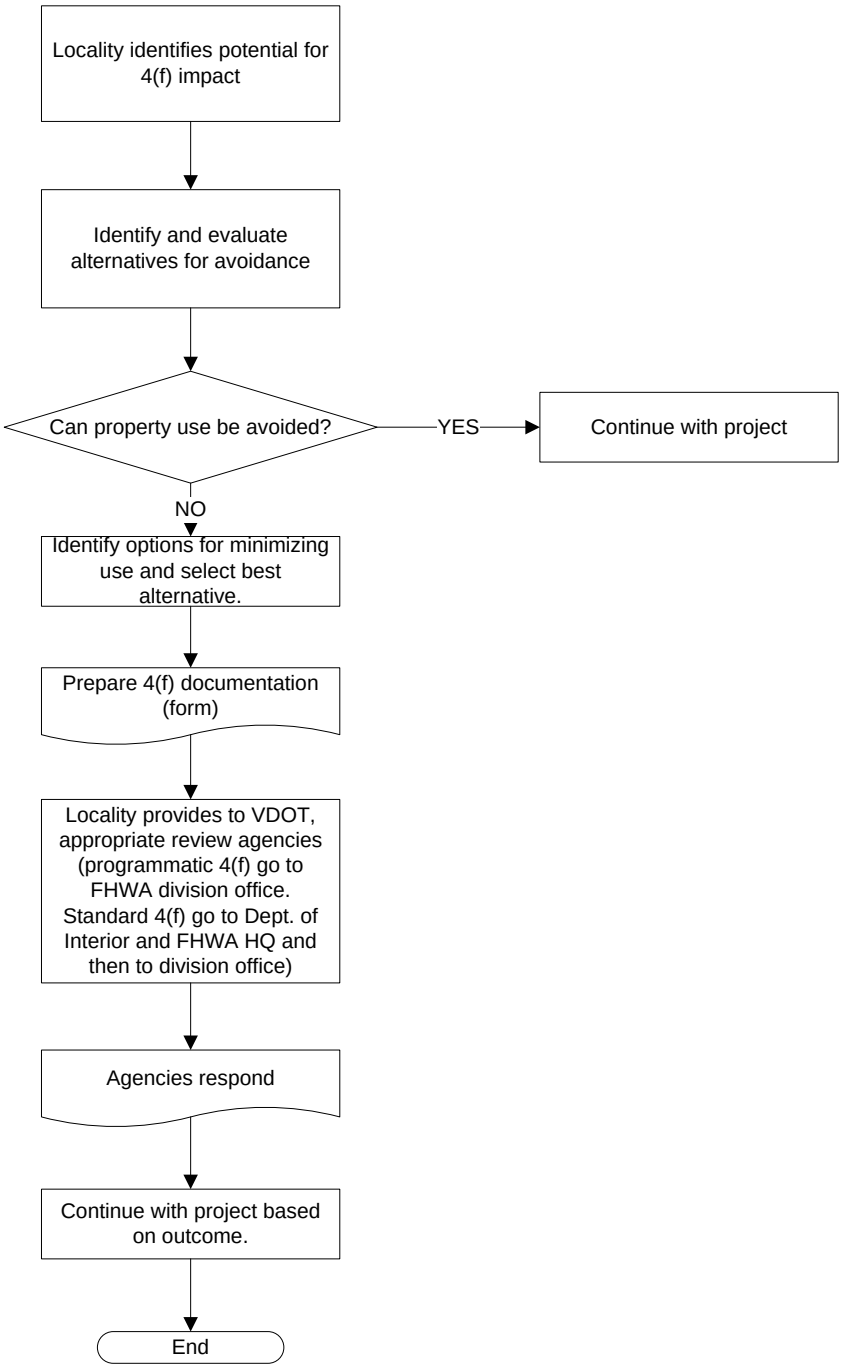
The VDOT Environmental Manager will provide the LPA information on known historic resources within the vicinity of the project as obtained from the VDHR's Data Sharing System.

- *Participate, as a consulting party, during the development of any MOA between the LPA and VDHR, for federal-aid projects..*
- *Prior to completion of NEPA documentation, ensure a copy of the effect determination letter from VDHR or MOA is received and entered into CEDAR.*
- *Oversee all commitments made for a federal-aid project to obtain a cultural resource effect determination are implemented by the LPA during the appropriate phase of project development or during construction.*

15.4.8 References

- Advisory Council on Historic Preservation Section 106 Regulations User's Guide
- Virginia Department of Historic Resources' Environmental Review
- VDHR's Guidelines for Conducting Cultural Resource's Survey in Virginia
- VDHR's Guidelines for Archaeological Investigations in Virginia

15.5 SECTION 4(F) EVALUATIONS



15.5.1 Introduction

The Department of Transportation Act (DOT Act) of 1966 included a special provision - Section 4(f) - which stipulated that the Federal Highway Administration (FHWA) and other DOT agencies cannot approve the use of land from publicly owned parks, recreational areas, wildlife and waterfowl refuges, or public and private historical sites unless the following conditions apply:

- There is no feasible and prudent alternative to the use of land, and
- The action includes all possible planning to minimize harm to the property resulting from use.

In August 2005, Section 6009(a) of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), made the first substantive revision to Section 4(f) since the 1966 US Department of Transportation Act. Section 6009, which amended existing Section 4(f) legislation at both Title 49 U.S.C Section 303 and Title 23 U.S.C. Section 138, simplified the process and approval of projects that have only *de minimis* (minor) impacts on lands impacted by Section 4(f). Under the new provisions, once FHWA determines that a transportation use of Section 4(f) property results in a *de minimis* impact, analysis of avoidance alternatives is not required and the Section 4(f) evaluation process is complete. Section 6009 also required the US DOT to issue regulations that clarify the factors to be considered and the standards to be applied when determining if an alternative for avoiding the use of a section 4(f) property is feasible and prudent. On March 12, 2008 FHWA issued a Final Rule on Section 4(f), which clarifies the 4(f) approval process and simplifies its regulatory requirements. In addition, the Final Rule moves the Section 4(f) regulation to 23 CFR 774.

15.5.2 Applicability

- The requirements of this chapter are applicable to all federal-aid projects and projects developed to qualify for federal aid.

15.5.3 Section 4(f) Coordination Process

Potential 4(f) properties should be identified during pre-scoping, scoping, or during the preliminary environmental review of the project if at all possible. When VDOT Environmental staff believes that 4(f) properties may be impacted, the LPA will be notified.

The LPA must consider 4(f) property impacts and coordinate with VDOT Environmental staff for additional review. The VDOT Environmental Coordinator will consult with FHWA for a formal determination of 4(f) applicability.

After a determination that 4(f) is applicable, the LPA will complete the necessary evaluation, coordination, and documentation.

VDOT requires the use of a standardized form for Section 4(f) Evaluation.

Guidance for completing the Section 4(f) evaluation can be found here.

The draft 4(f) Evaluation will be submitted to VDOT for review. Comments will generally be provided within 15 business days. After addressing the VDOT comments, the LPA will submit a final draft 4(f) Evaluation and VDOT will submit to FHWA for final approval.

VDOT Responsibilities:

- *VDOT Environmental staff will consult with FHWA regarding Section 4(f) applicability and notify the project coordinator and LPA of the determination.*
- *After receiving the draft 4(f) Evaluation, the Environmental Coordinator will provide comments to the VDOT project coordinator and LPA within 15 business days.*

- *After receiving the final 4(f) Evaluation, the VDOT Environmental Coordinator will submit it to FHWA.*
- *Information uploaded into CEDAR.*

15.5.4 References

- FHWA Section 4(f) Policy Paper
- Guidance for Determining De Minimis Impacts to Section 4(f) Resources - FHWA
- Section 4(f) - Independent Bikeway or Walkway Construction Projects
- Section 4(f) - Use of Historic Bridges
- Section 4(f) - Involvements with Historic Sites
- Section 4(f) - Involvements with Public Parks, Recreation Lands, and Wildlife and Waterfowl Refuges
- Section 4(f) Evaluation and Approval for Transportation Projects That Have a Net Benefit to a Section 4(f) Property
- Section 4(f) Evaluation form and Guidance

15.6 NOISE STUDIES AND ABATEMENT

15.6.1 Introduction

Federal regulations (23 CFR Part 772) require that each State Transportation Agency determine and analyze anticipated noise impacts and alternative noise abatement measures for those impacts for specific type of highway construction projects.

In response to new technology and the industry practices, FHWA proposed changes to federal noise abatement policy and regulation. The final rule was published on July 13, 2010 with an effective date of July 13, 2011. It required each State DOT to revise its noise policy to be in accordance with this final rule. FHWA approved the Virginia Department of Transportation Highway Traffic Noise Impact Analysis Guidance Manual on March 15, 2011. The CTB approved the Manual on June 15, 2011.

Effective Date: July 13, 2011

Updated: September 16, 2011

The new policy sets out statements on general applicability (FHWA resources, General Assembly mandate, and administration of the policy) as well as creates a companion document to cover details in a comprehensive manner. The companion document is titled "Highway Traffic Noise Impact Analysis Guidance Manual". The VDOT noise policy and guidance manual can be located at: http://www.virginiadot.org/projects/pr-noise-walls-about.asp.

A noise wall is a specially designed structure built to reduce noise levels created by nearby highway traffic. It is built only after noise impact studies are conducted and certain conditions are met. VDOT conducts studies and looks into options for reducing noise levels along proposed federally funded highway improvement projects. Projects must meet one of the following conditions to be considered for noise abatement:

(1) The construction of a highway on new location; or,

(2) The physical alteration of an existing highway where there is either:

(i) Substantial Horizontal Alteration. A project that halves the distance between the traffic noise source and the closest receptor between the existing condition to the future build condition; or,

(ii) Substantial Vertical Alteration. A project that removes shielding therefore exposing the line-of-sight between the receptor and the traffic noise source. This is done by either altering the vertical alignment of the highway or by altering the topography between the highway traffic noise source and the receptor; or,

(3) The addition of a through-traffic lane(s). This includes the addition of a through-traffic lane that functions as a HOV lane, High-Occupancy Toll (HOT) lane, bus lane, or truck climbing lane; or,

(4) The addition of an auxiliary lane, except for when the auxiliary lane is a turn lane; or,

(5) The addition or relocation of interchange lanes or ramps added to a quadrant to complete an existing partial interchange; or,

(6) Restriping existing pavement for the purpose of adding a through-traffic lane or an auxiliary lane; or,

(7) The addition of a new or substantial alteration of a weigh station, rest stop, ride-share lot or toll plaza.

15.6.2 Applicability

- Requirements of this chapter apply to all federal-aid projects and projects developed to qualify for federal-aid.

15.6.3 Noise Abatement Coordination Process

15.6.3.1 Project Type Determination

Only those projects determined to be Type I federal-aid projects will require noise analysis. Type I projects involve the construction of a highway on new location or the physical alteration of an existing highway which significantly changes the horizontal or vertical alignment or increases the number of through traffic lanes and are further defined in section 15.6.1 (1) through (7).

VDOT Responsibilities:

- *VDOT Environmental coordinates with VDOT Noise Abatement Engineer to obtain determination whether project is Type I and will require a Noise analysis.*
- *VDOT Environmental provides project coordinator and LPA determination within 7 business days.*

15.6.3.2 Noise Analysis

During the noise analysis, the LPA is encouraged to consult with VDOT Noise Abatement Engineer to ensure that the approach and methodologies being used meet the requirements of FHWA. The LPA may request a coordination meeting with VDOT Noise staff to discuss analysis planning.

The LPA will provide the draft and final Preliminary Design and Final Design Noise Analysis Technical Report to the VDOT project coordinator who will transmit the reports to the VDOT Noise Abatement Engineer for review. The noise analysis must document the existing, no-build (where applicable), and the design year noise environment and the results of the noise analysis must be included in the NEPA documentation. This information should also be used to ensure appropriate Right of Way and design considerations take place.

VDOT Noise Abatement Engineer reviews and comments on draft Noise Technical Reports within 30 days of receipt from LPA/consultant.

15.6.4 Citizen Coordination

After the approval of the Final Design Noise Analysis and Chief Engineer approval, the LPA will send out certified survey letters to affected property owners. Results are presented to VDOT Noise Abatement Engineer. An example

of a cover letter and survey for citizens is attached. A graphic is also usually inserted with letters.

The impacted citizens have the final say in the construction of barriers. If a tie vote occurs the barrier is typically constructed. However, if more than half of the citizens do not want the barrier a graphical analysis of the votes is recommended. For example, if 10 citizens in the front row vote yes and 12 citizens in the 2nd row vote no, then the barrier would be constructed because the front row of homes are anticipated to have a greater noise impact.

The LPA provides results of the citizen survey to the VDOT Noise Abatement Engineer.

15.6.5 Noise Abatement Design

The LPA will ensure design and construction of noise abatement (barriers, berms, etc.) as per the approved Final Design Noise Analysis. The LPA provides the VDOT Noise Abatement Engineer with any changes to design plans that take place after the approval of the Final Design Noise Analysis.

Noise Abatement Specialists use computer models to analyze and predict noise levels based on the loudest hour of the day for future conditions. Along with the road's design, they must consider the area's topography, the distance between the road and nearby properties, traffic speeds and the sounds created by different types of vehicles. The computer model uses that data to predict the future noise level, which is compared with Federal Highway Administration (FHWA) and VDOT noise abatement criteria. If this comparison identifies an impact, VDOT noise abatement specialists must evaluate noise reduction options.

Several options including noise barriers are available and they are presented in the Highway Traffic Noise Impact Analysis Guidance Manual.

The noise barriers can reduce traffic noise significantly and improve quality of life for people living behind them. However, noise barriers must meet the following conditions to be feasible and/or reasonable:

To be feasible a noise barrier:

(1) must reduce noise levels by at least a 5 decibels fifty percent (50%) or more of the impacted receptors experience 5 dB(A) or more of insertion loss to be feasible; and;
(2) it must be possible to design and construct the noise abatement measure in the proposed location. The factors related to the design and construction include: safety, barrier height, topography, drainage, utilities, and maintenance of the abatement measure, maintenance access to adjacent properties, and general access to adjacent properties (i.e. arterial widening projects)

All of the reasonableness factors listed below must collectively be achieved in order for a noise abatement measure to be deemed reasonable:

(1) the viewpoints of the affected citizens shall be obtained through surveys. Fifty percent (50%) or more of the respondents shall be required to favor the noise abatement measure in determining reasonableness, and
(2) the noise barrier must be 1,600 square feet or less per benefited receptor to be considered cost-effective, and
(3) the noise barrier shall reduce noise levels by 7 decibels for at least one (1) noise impacted property.

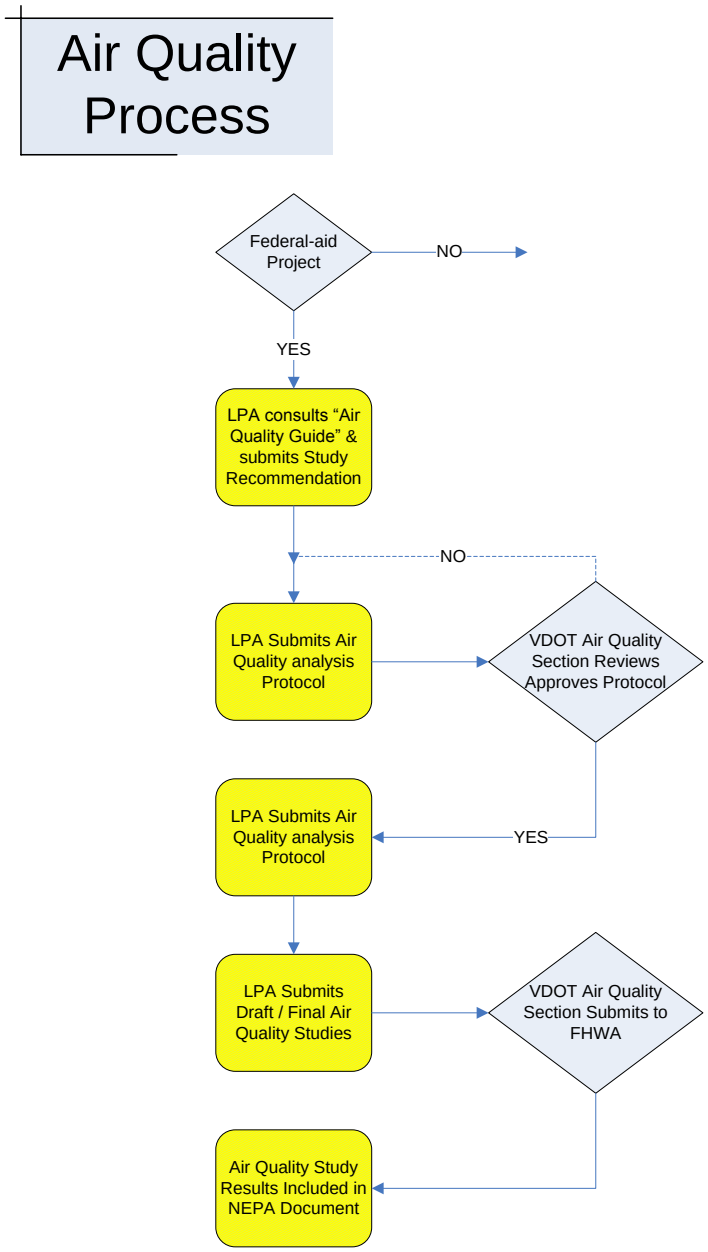
VDOT Responsibilities:

- *Oversee LPA implementation of any required noise abatement during design and construction.*
- *Ensure LPA coordinates with VDOT Noise Abatement Engineer changes to design plans made after NAC decision.*

- *Obtain Chief Engineer/FHWA concurrence memorandum and provide to LPA.*

15.6.7 References/Links

- VDOT "About Noise Walls"
- FHWA Guidebook References on Noise
- State Noise Abatement Policy
- FHWA's Highway Traffic Noise Analysis and Abatement Policy and Guidance


Air Quality Process
Federal-aid Project
NO
YES
LPA consults "Air Quality Guide" & submits Study Recommendation
NO
LPA Submits Air Quality analysis Protocol
VDOT Air Quality Section Reviews Approves Protocol
LPA Submits Air Quality analysis Protocol
YES
LPA Submits Draft / Final Air Quality Studies
VDOT Air Quality Section Submits to FHWA
Air Quality Study Results Included in NEPA Document

15.7.1 Introduction

The Clean Air Act requires that transportation projects not result in or contribute to a violation of the National Ambient Air Quality Standards (NAAQS), or delay timely attainment of them. As such, all federally funded transportation plans, improvement programs, and projects must be shown to conform to the purpose of the Air Quality Plan in all non-attainment and maintenance areas throughout Virginia. This process is called Transportation Conformity and applies to regional long-range transportation plans (LRTP) and transportation improvement programs (TIP), as well as individual transportation projects.

Every regionally significant transportation project must be included in a conforming LRTP and/or TIP. Regional transportation conformity requirements are generally met by performing a regional emissions analysis for various analysis years throughout the timeframe of the LRTP, and the total projected air pollutant emissions must be demonstrated to fall below the motor vehicle emissions budgets included in the applicable Air Quality Plan. This function is typically performed by VDOT, or in the case of Northern Virginia, by the Metropolitan Washington Council of Governments.

In addition, NEPA requires each federally funded transportation project be evaluated for its potential impact on air quality in the immediate vicinity of the project, and this evaluation is called a “hot-spot” analysis. Each applicable project must demonstrate that sensitive populations will not be exposed to pollutant concentrations above an applicable air quality standard. Depending upon its location, each project may need to be evaluated for its impact on carbon monoxide, fine particulate matter, and mobile source air toxics concentrations. VDOT’s Air Quality Consultant's Guide sets standards for air quality assessment work and must be consulted to avoid approval delays.

15.7.2 Applicability

- All federal-aid projects and projects developed to qualify for federal-aid.

- Regionally significant non federal-aid projects, as identified in VDOT's SYIP.
- Transportation conformity requirements apply only to transportation projects located in Virginia's air quality nonattainment and maintenance areas. Currently, this includes the Richmond/Tri-Cities, Hampton Roads, Fredericksburg, and Northern Virginia regions.

15.7.3 Air Quality Coordination Process

The LPA will review the requirements outlined in VDOT's Air Quality Consultant's Guide and in consultation with VDOT Environmental determine which, if any, project-level air studies (i.e. PM2.5 Hot Spot Analysis, Carbon Monoxide Analysis, and/or Mobile Source Air Toxics Analysis) are required, as well as appropriate level of analysis (i.e. qualitative or quantitative).

The LPA will prepare an air quality analysis protocol in accordance with VDOT's Air Quality Consultant's Guide and submit to the VDOT project coordinator (who will coordinate with the VDOT Air Section) for review/comment. The VDOT Air Section will provide comments and recommendations within five (5) business days.

The LPA will perform the required project-level air quality analyses and submit an electronic draft to the project coordinator. VDOT Air Section will provide comments within 10 business days. After consideration of VDOT's comments, the LPA will submit an electronic copy of the final analyses. When appropriate, VDOT will submit the final analysis to FHWA for review and approval.

VDOT Responsibilities:

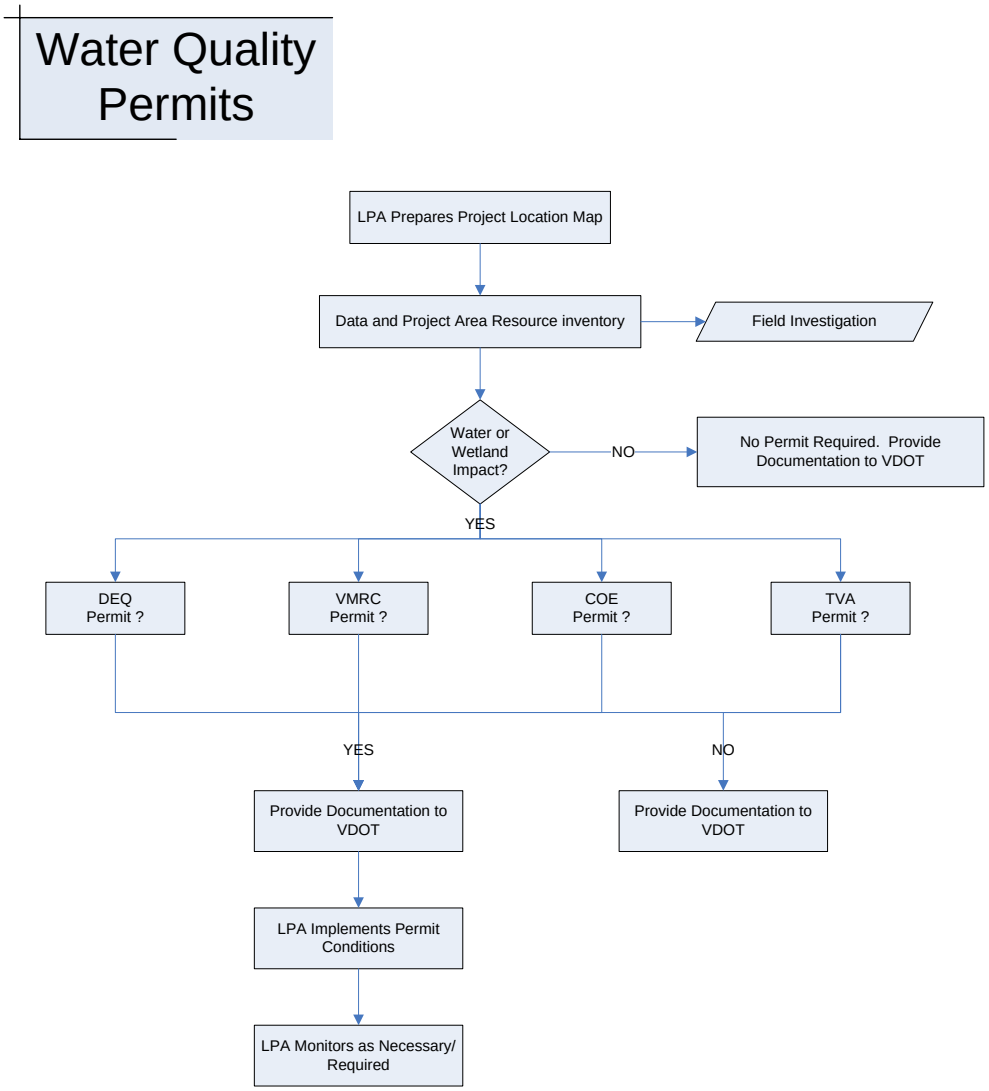
- *The VDOT project coordinator and the District Environmental staff will work with VDOT Air Section to provide technical advice to the LPA, as requested during development of the Air Quality analyses.*

- *VDOT Air Section will review and provide comments for protocols within 5 business days of receipt. Comments for draft analyses will generally be provided within 10 business days.*
- *VDOT Air Section submits draft/final project level air studies to FHWA as appropriate.*

15.7.4 References/Links

- Interim Guidance on Mobile Air Toxic Analysis in NEPA documents - FHWA Guidance Memorandum September 30, 2009
- FHWA Agreement on Streamlining Project Level Air Studies 2009
- VA Department of Environmental Quality - Air regulation
- VDOT's Air Quality Consultant's Guide
- FHWA Air Quality
- FHWA Air Toxics

15.8 WATER QUALITY PERMITTING



15.8.1 Introduction

There are a variety of different state and federal regulations that are applicable when a transportation project impacts streams and/or wetlands. LPA's should expect to consult with the US Army Corps of Engineers (COE) for permits for fill and/or excavation to waters of the United States, including wetlands. LPA's bordering the Tennessee River or any of its tributaries may be required to obtain permits through the Tennessee Valley Authority (TVA). Additionally, Localities may be required to consult with the Virginia Department of Environmental Quality (VDEQ) and/or the Virginia Marine Resources Commission (VMRC) for permits.

15.8.2 Applicability

- The requirements of this chapter are applicable to federal-aid projects and projects developed to qualify for federal-aid.

15.8.3 Water Quality Permitting Coordination Process

The LPA is responsible for obtaining all necessary regulatory approvals, permits, and licenses for each project, which may include United States Coast Guard permits over navigable waterways and COE permits for impacts to waters of the United States (streams and wetlands) and any other permits issued by state agencies. The locality must design its projects in accordance with the laws and regulations referenced below. Unless otherwise agreed to, VDOT will not be involved in the LPA's efforts to obtain the regulatory approvals, permits, or licenses.

Prior to federal authorization for construction advertisement, the LPA must submit documentation based on the Natural Resources Due Diligence Checklist (EQ-555). This documentation must be submitted as part of the PS&E Submittal Package (see chapter 12.6). VDOT cannot complete the Environmental Certification (EQ-103) without this information.

Oftentimes there are conditions associated with the issuance of water quality permits. Compliance with those permit conditions are the sole responsibility of the LPA and regulatory agencies will enforce those conditions.

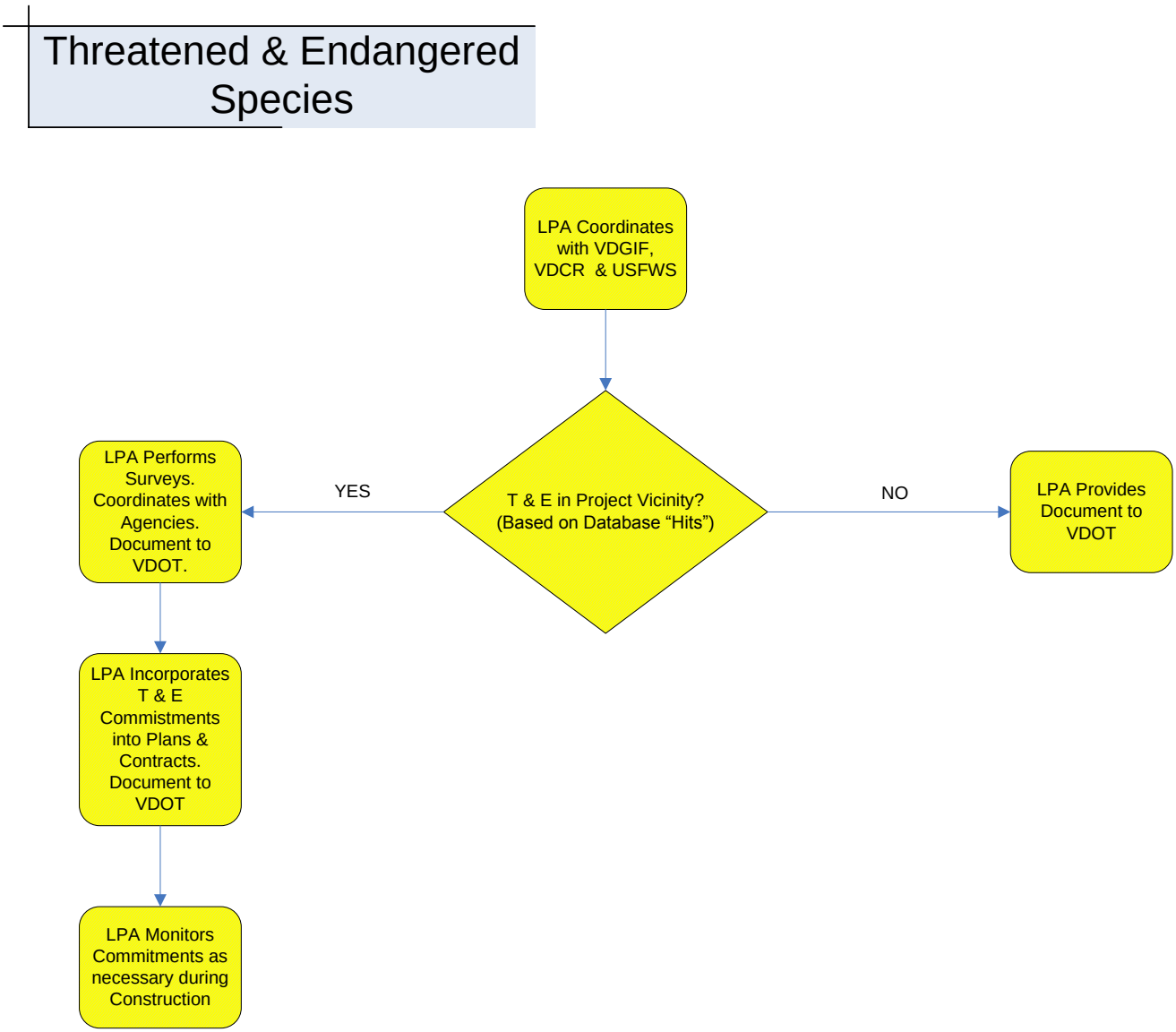
VDOT Responsibilities:

- *VDOT Environmental Staff provides the Natural Resources Due Diligence Checklist to the LPA.*
- *VDOT receives copies of LPA's documentation based on the Natural Resources Due Diligence Checklist from regulatory agencies (e.g. clearance correspondence or permits obtained).*

15.8.4 References

- Virginia Department of Environmental Quality - Water Division
- US Army Corps of Engineers - Norfolk District
- Virginia Marine Resource Commission
- Natural Resources Due Diligence Checklist (EQ-555)

15.9 THREATENED AND ENDANGERED SPECIES



15.9.1 Introduction

Threatened and Endangered (T&E) species clearances are required to ensure the LPA is meeting its state and federal requirements to address potential effects and impacts on state and federal species in accordance with legal and regulatory requirements.

In Virginia, LPA's may expect to coordinate with the US Fish and Wildlife Service (FWS), the Virginia Department of Game and Inland Fisheries (DGIF), and the Division of Natural Heritage (DNH) within the Virginia Department of Conservation and Recreation (DCR).

15.9.2 Applicability

- The requirements of this chapter are applicable to federal-aid projects and projects developed as federally eligible.

15.9.3 T&E Coordination

The LPA will coordinate with appropriate regulatory agencies to determine if listed state/federal T&E species exist within the project area. Based on this initial coordination with the regulatory agencies, LPA's would then conduct any technical studies (i.e. habitat assessment, species surveys, Biological Evaluations or Biological Assessments) as required.

The results of this coordination and any studies are then provided to VDOT based on the Natural Resources Due Diligence Checklist (EQ-555). Information related to the potential presence of federally listed T&E species is necessary for completion of the NEPA document. Complete T&E documentation is required for VDOT to complete the PS&E re-evaluation and Environmental Certification prior to authorization to advertise.

The LPA must incorporate any environmental commitments made to regulatory agencies during the T&E coordination process into project plans

or construction documents (e.g. avoidance of specified area, relocation of species prior to ground disturbance, Time of Year Restrictions, etc.).

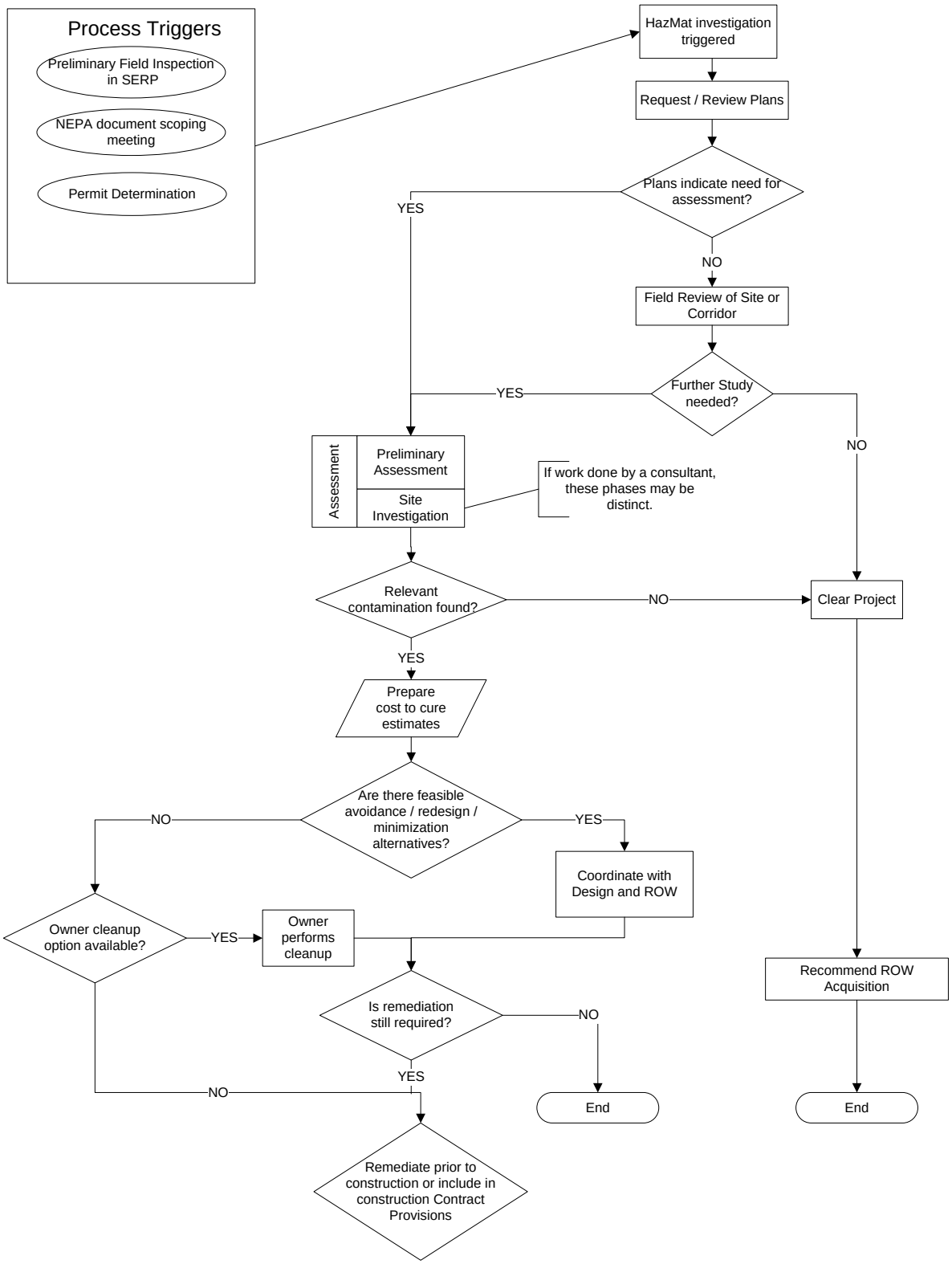
VDOT Responsibilities:

- *Provide copy of Natural Resources Due Diligence Checklist to LPA.*
- *Receive copies of LPA's agency correspondence based on Natural Resources Due Diligence Checklist.*
- *Oversee that any environmental commitments are incorporated into locality's design or construction.*

15.9.4 References/Links

- US Fish & Wildlife Service Endangered Species Act
- Virginia Department of Conservation & Recreation's Division of Natural Heritage
- Virginia Department of Game & Inland Fisheries
- Natural Resources Due Diligence Checklist

15.10 HAZARDOUS MATERIALS



15.10.1 Introduction

LPA's are responsible for performing an appropriate level of environmental "due diligence" to determine any "recognized environmental conditions" (REC's) on properties that will be acquired for the project. Additionally, LPA's will need to determine any such conditions on existing right-of-way that might impact construction activities. Such REC's can indicate a continuing release, past release, or a material threat of a release of hazardous substances or petroleum into the soil, groundwater or surface water of the property or adjacent properties, or the presence of such impairments associated with buildings or structures.

VDOT recommends that all due diligence investigations satisfy the practices that constitute all appropriate inquiries into the previous ownership and uses of the property consistent with good commercial or customary practice as defined in 42 U.S.C. 9601(35)(B). Accepted industry environmental due diligence procedures are available through ASTM-International. When REC's are determined to be present, the LPA is responsible for coordinating with appropriate environmental agencies to determine what, if any, regulatory requirements must be met prior to, during, and/or following construction.

The LPA should take prudent steps to avoid, minimize, contain or otherwise manage potential impacts from contamination or potential sources of contamination through alignment shifts or design changes. Where such impacts cannot feasibly be avoided, the LPA is responsible for developing cost estimates for site closure/remediation/mitigation and addressing the impacts either prior to project construction (e.g. underground storage tank closure) or during the construction phase through the use of specific contract provisions.

The responsible entity must also ensure that appropriate inspections are made for asbestos containing materials and that provisions are made to remove/abate or otherwise mitigate such hazards. VDOT can provide copies of established

procedures for asbestos inspection, asbestos abatement, and asbestos project monitoring that the LPA can follow.

15.10.2 Applicability

- Federal-aid projects and projects developed to qualify for federal aid.
- All projects where VDOT will maintain the project after construction.

15.10.3 Hazardous Materials Coordination Process

After completion of the SERP, the LPA will receive a PEI that contains an inventory of known REC's within the project corridor. The LPA should use this information in addition to any prudent further due diligence activities they deem appropriate.

After completion of the due diligence activities and before federal Right of Way Authorization can be provided, the LPA must submit a completed and signed Hazardous Materials Due Diligence form (EQ-121) to the VDOT project coordinator (to be used by the VDOT District Right-of-Way Manager and District Environmental Manager).

At times, hazardous materials mitigation must be performed during construction. On these occasions, the LPA will need to prepare special contract provisions and/or special provision copied notes to address hazardous materials issues on a project (e.g. petroleum contamination, lead paint, asbestos inspections, abatement, and monitoring). VDOT has a number of special provisions and the LPA is encouraged to coordinate with VDOT Environmental staff to obtain those provisions.

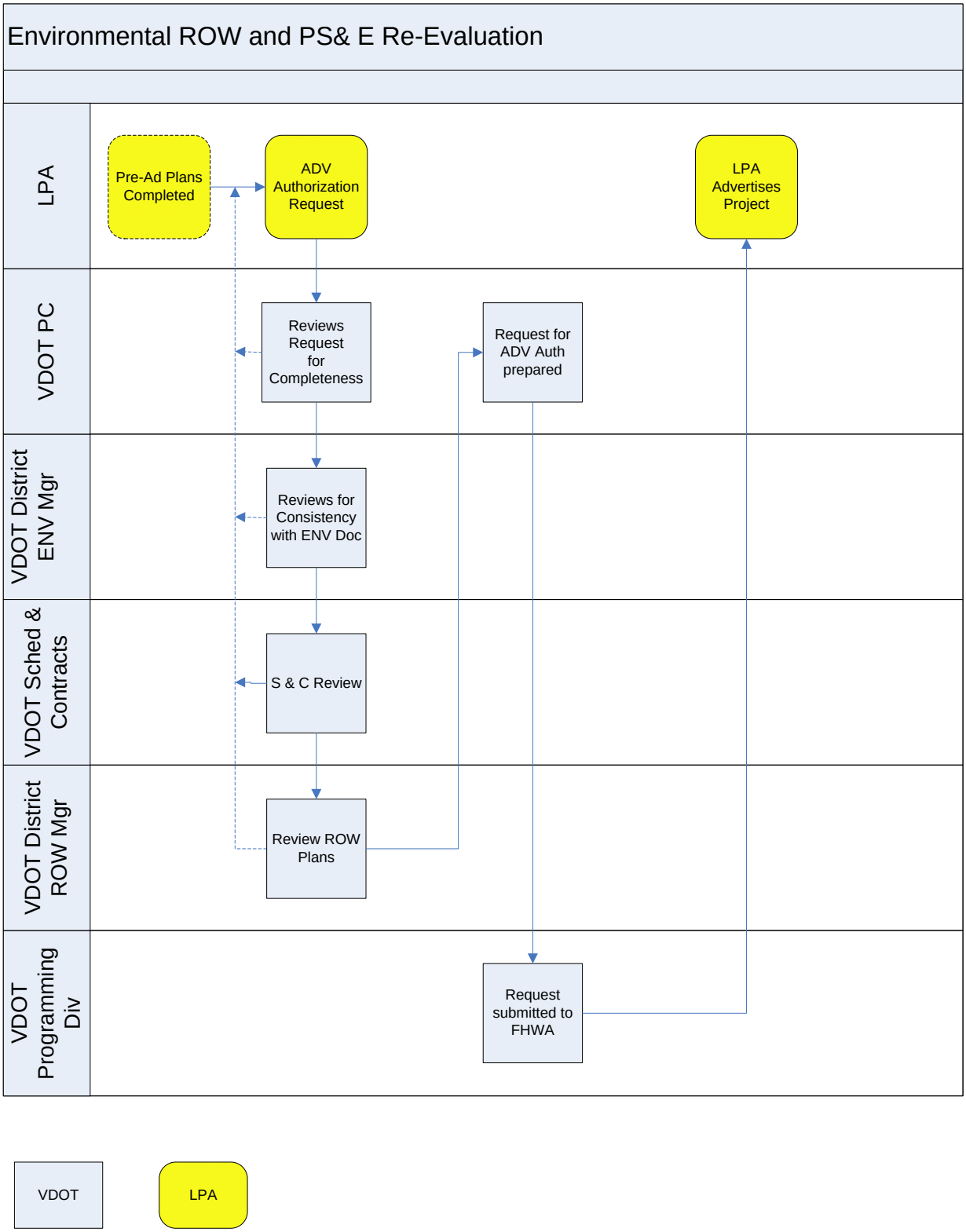
VDOT Responsibilities:

- *VDOT Environmental provides the EQ-121 to the LPA at kick off or scoping meeting.*
- *VDOT Right-of-Way Manager receives the completed and signed EQ-121 form from LPA. VDOT Right-of-Way then can proceed with the Right-of-Way certification process.*
- *VDOT District Environmental Manager receives the completed and signed EQ-121 form from LPA. Environmental Manager then can proceed with PS&E re-evaluation / Environmental Certification process.*

15.10.4 References

- ASTM-International
- FHWA Guidance on Hazmat
- Virginia Department of Environmental Quality - Waste
- Environmental Protection Agency - Due Diligence/Due Care
- Hazardous Materials Due Diligence form (EQ-121)

15.11 RE-EVALUATIONS AND CERTIFICATION



15.11.1 Introduction

The VDOT District Environmental Manager must certify that the environmental documentation is complete and valid prior to federal right of way and construction authorizations.

15.11.2 Applicability

- All federal-aid projects and projects developed to qualify for federal-aid.

15.11.3 Right of Way Re-evaluation

Prior to Right-of-Way authorization (when the acquisition involves federal right of way funds), VDOT must confirm that the Right-of-Way proposed for purchase conforms to the footprint studied in the NEPA document. This is documented by VDOT in the Right-of-Way Re-evaluation form and provided to FHWA.

Projects which have received a Programmatic Categorical Exclusion (PCE) are not required to receive a PM-130 form or right-of-way re-evaluation form at the right-of-way authorization stage.

VDOT Responsibilities:

- *VDOT project coordinator provides PM-130 form to VDOT Environmental Manager for right-of-way authorization. Environmental Manager reviews plans and environmental documentation; completes right-of-way reevaluation form within 15 business days. Copy provided to LPA.*

15.11.4 PS&E Re-evaluation & Environmental Certification

Prior to Construction authorization by FHWA, VDOT District Environmental Manager must confirm that the plans proposed for construction match the footprint originally studied in the NEPA document

(PS&E Re-evaluation), that all required environmental permits, environmental commitments and conditions have been fulfilled, or plans are in place to fulfill them (Environmental Certification).

The environmental documentation and project plans provided by the LPA to the VDOT project coordinator (which will be forwarded to the VDOT District Environmental Manager), allow this confirmation to take place. The Plans, Specifications, and Estimates (PS&E) Re-evaluation form and the Environmental Certification Checklist taken together, reaffirm to VDOT and FHWA that the environmental documentation originally prepared by the LPA is sufficient to advance to construction.

The LPA project manager should review the requirements identified in these forms and ensure that all necessary documentation has been submitted prior to requesting authorization to advertise. Missing documentation will delay VDOT's ability to complete the processes necessary to request FHWA authorization for advertisement.

VDOT Responsibilities:

- *VDOT project coordinator provides PM-130 form to VDOT Environmental Manager for PS&E authorization. Environmental Manager reviews environmental documentation and completes PS&E reevaluation and Environmental Certification form within 15 business days. Copy provided to LPA.*

15.12 Environmental Monitoring

15.12.1 Introduction

Coordination with state and federal regulatory agencies and completion of NEPA documents may result in environmental commitments that must be implemented during design, construction, or post-construction. It is the responsibility of the LPA to ensure environmental process steps or environmental commitments made to regulatory agencies are implemented. VDOT's oversight responsibility is limited to those items identified in this manual and items identified in VDOT's plan for the oversight of environmental elements of locally administered projects, found here.

The VDOT Area Construction Engineer will conduct periodic monitoring of environmental commitments identified in the SERP or NEPA process. Failure to implement environmental commitments can result in the LPA's loss of federal aid or the possibility of fines and criminal convictions.

LPA's are solely responsible for the compliance with all environmental laws and regulations applicable to their projects.

Locally Administered Projects (LAP) Manual

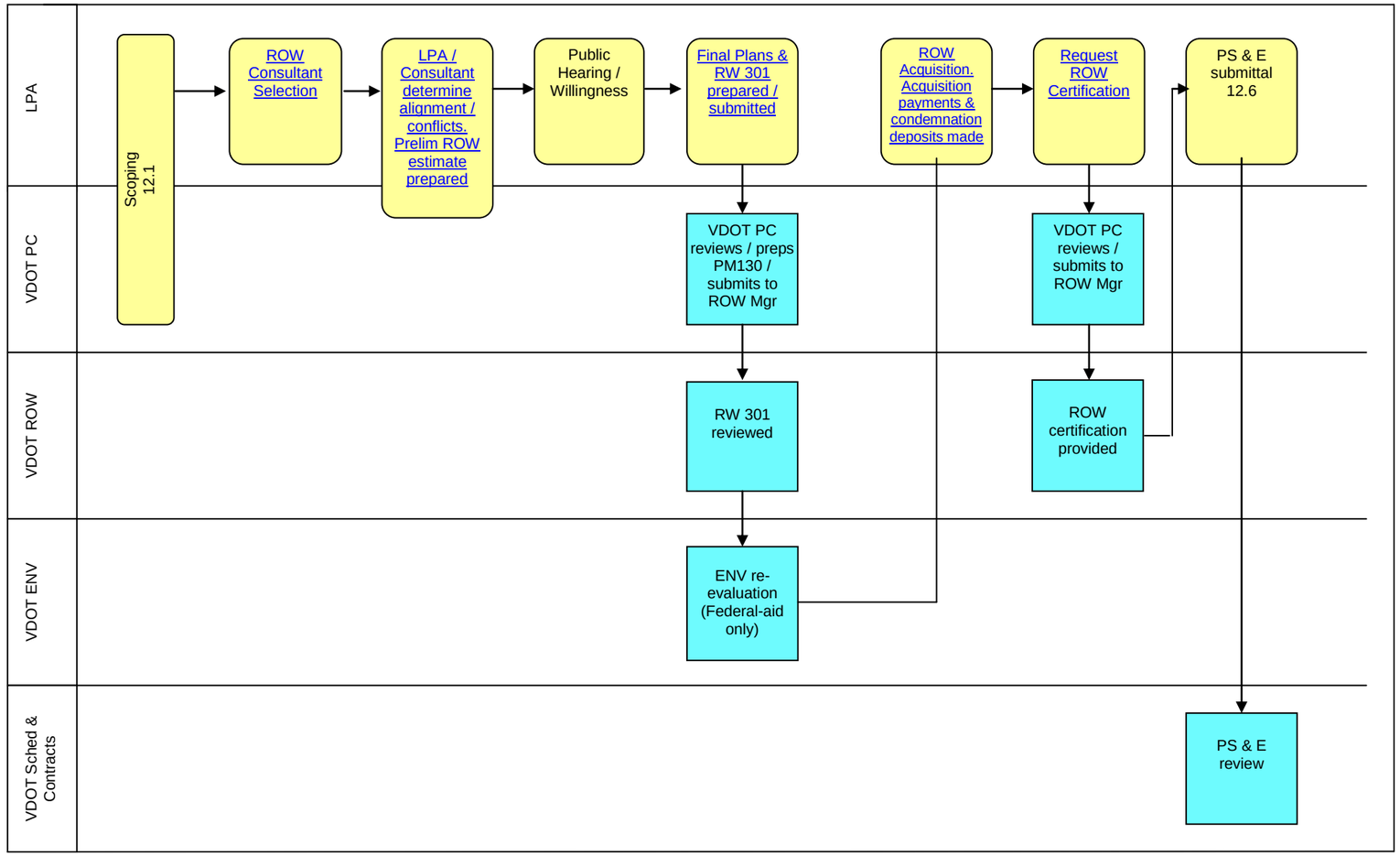
PART 3

Standards and practices for LAP

Chapter 16

Right of Way

Chapter 16 - Right of Way Process



Chapter 16 - RIGHT OF WAY

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16.2 Applicability
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16.4 Preliminary Right of Way
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- 16.4.2 Staff Augmentation / Consultants
- 16.4.3 Right of Way Cost Estimate
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- 16.4.5 Right of Way Plans

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APPENDICES

16-A RW-301 Right of Way Reauthorization Request
16-B Right of Way Certification Letter
16-C LPA Checklist
16-D Relocation Report

16.1 INTRODUCTION

The Right of Way chapter outlines the processes and responsibilities associated with acquisition of rights of way; relocation of displaced individuals, businesses, farms, and non-profit organizations; right of way authorization and certification; the disposition of residue/surplus properties; and VDOT's responsibilities for oversight and certification of LPA activities for federal-aid projects.

16.2 APPLICABILITY

- All federal-aid projects.
- Projects with state aid participating in R/W process.
- Processes do not apply to state-aid projects, where no state-aid is used in R/W acquisition.
- Projects meeting the criteria outlined in chapter 5, of this manual , where property is not acquired in the name of VDOT, and underlying fee will not be transferred to VDOT are the sole responsibility of the local government to meet applicable state code(s) relating to relocation, property acquisition, and eminent domain. For these projects the following processes are intended as informational and recommended practices. VDOT will require a certification statement from the local government that they have met all applicable regulations regarding relocation and the acquisition of the properties prior to financial reimbursements. Localities may be subject to post-project audits by VDOT.

16.3 SUMMARY

"Right of Way" refers to the real property rights which the LPAs must possess to construct transportation projects. The intent of this chapter is to provide the LPA project managers with resources and background information to gain a basic understanding of the federal-aid right of way process. This chapter can also be used as a guide for state aid procedures because Virginia Code requirements are very similar to federal requirements. **However, local governments active in relocation and property**

acquisition for non federal-aid projects are solely responsible to meet State Code requirements applicable to them for their Capital Improvement projects regarding relocation, property acquisition, and eminent domain. VDOT does not provide certification of compliance, compliance oversight, or additional guidance for those projects. LPAs will be required to submit a certification statement that they have met all regulatory requirements associated with relocation and property acquisition. Where LPA's do not have in-house expertise to ensure compliance with federal regulations pertaining to relocations and property acquisition, they must make it a priority to employ consultants that do and consult with VDOT whenever there are concerns about compliance. The LPAs who will be administering right of way acquisition and relocation must comply with the "Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970," as amended, found in Title 42 chapter 61 of the United States Code and the implementing regulations found in 49 CFR Part 24. **For federal-aid projects, federal requirements associated with relocation and property acquisition must be met and VDOT must certify that they have been met, even if federal-aid is not used for the actual acquisition of right of way for the project.** The Virginia Department of Transportation has developed a Right of Way Manual of Instruction, which is approved by FHWA and provides processes and procedures for federal-aid projects. The LPA is expected to obtain an up-to-date copy of this manual and be cognizant of its contents. **For federal-aid projects, VDOT is required by FHWA to certify the local government's compliance with the Uniform Act and retains final approval authority for relocation and property acquisition activities of the local government.**

Under Section 23 CFR 710.201(h), when Federal–aid is used in any phase of a locally administered project, the FHWA places oversight responsibility for the acquisition of right of way and the relocation of individuals, businesses and utilities with VDOT. As part of the oversight responsibility assigned to VDOT by FHWA, VDOT is required to monitor the LPA right of way appraisal, acquisition, and relocation activities on all federal-aid projects for compliance with applicable laws and regulations. This does not, however, exempt the responsibility of the LPA from following all laws and regulations. VDOT fulfills this obligation by a combination of methods to include, certifications of

compliance by the LPAs, on-going project monitoring and reviews, and post project assessments, which are described further in this manual.

Because of the responsibilities assigned to VDOT for federal-aid projects, the LPA must provide VDOT access to any and all records which demonstrate compliance with federal laws and regulations.

Key provisions to prevent conflicts of interest

- Appraisals and appraisal reviews must be performed by a licensed appraiser in compliance with the Uniform Standards of Professional Appraisal Practice (USPAP) standards.
- The same individual who appraises the property may not perform the appraisal review.
- The same individual who performs the appraisal or appraisal review may not conduct the negotiation.
- The Review Appraiser must be licensed and hired directly by the LPA.
- The same individual who performs relocation assistance calculations may not be the same person who reviews and approves these benefits. These individuals must be hired directly by the LPA.

16.4 PRELIMINARY RIGHT OF WAY PROCESS

16.4.1 Introduction

The LPA is responsible for maintaining complete and accurate parcel-specific records. These records are to be maintained for five years after indefeasible title is obtained. The LPA may use VDOT's Right of Way and Utilities Management System (RUMS) to track each parcel acquisition and relocation of displacees. If the LPA elects not to utilize RUMS, it must have an equivalent tracking system (electronic or some other method) showing all activities and accomplishments for each parcel acquisition and relocation of displacees that has the capabilities to meet State and Federal reporting requirements. VDOT's Right of Way and Utilities Management System (RUMS) contains a forms and letters repository with templates of every sort of acquisition forms and letters. The use of the RUMS forms templates is strongly encouraged.

16.4.2 Staff Augmentation/Consultants

If the LPA does not have the qualified staff to perform the acquisition of the necessary rights of way, they may hire qualified Consultants. VDOT maintains a list of pre-qualified appraisers and consultant contracting firms that can be provided at the LPA's request. If the LPA hires a consultant, the LPA has the responsibility to monitor the consultant and his/her activities and must be kept informed during all phases of the right of way process. It is the LPA's responsibility to ensure that the consultant is following all applicable laws, regulations, policies, and the processes contained in the VDOT Right of Way Manual of Instructions. LPAs are not expected to meet those procedures, use of forms or information systems, or other instructions, specifically applicable to VDOT. **If the LPA's city/county attorney is not representing the LPA in a condemnation, the LPA must coordinate through the Regional Right of Way Manager to have the Office of Attorney General assign a condemnation attorney to the case.**

16.4.3 Right of Way Cost Estimate

An initial right of way (and utilities) cost estimate must be prepared at the scoping stage and entered into the VDOT Project Cost Estimating System (PCES). This estimate must be updated at least once every 90 days throughout the duration of the project development process. The estimate shall include the type of properties to be acquired and the number of parcels to be acquired on the project. It should include a breakdown of the types of relocations involved (i.e., number of residential, commercial, farms, etc.). The estimate should also include the estimated fair market value for the properties to be acquired as well as the anticipated relocation assistance costs.

16.4.4 Notice of Intent to Enter

Prior to entering property to ascertain its suitability for highway and other transportation purposes, a "Letter of Intent to enter upon Property" must be provided to each property owner, sent by mail, in accordance with §33.1-94 of the Code of Virginia (generally 15 days prior to date of entry), and documented in Agency files. A copy of VDOT's form

letters is available from the Right of Way and Utilities Management System (RUMS) forms repository and can be obtained by contacting the VDOT project coordinator.

16.4.5 Right of Way Plans

Preliminary surveys and design plans are used throughout the right of way process by R/W personnel. Preliminary surveys are needed to prepare appraisal drawings and more detailed plans, showing Stations, property lines, existing and proposed right of way and limited access lines, existing and proposed easements acquisition and residue areas, and all improvements are needed for the appraisal and acquisition functions, as well as for public hearings.

Prior to obtaining authorization for federal right of way acquisition activities to begin, a final R/W Plan must be submitted to the VDOT project coordinator. This is typically done at the 60 percent plan design phase VDOT form RW-301 provides a list of items that must be included in the final right of way plan. The title sheet must be signed by the LPA employee responsible for the project., indicating that the plans are complete and adequate for the acquisition of rights of way and for the relocation of utilities. A further explanation of the Right of Way Authorization process is contained in Section 16.5.

16.5 RIGHT OF WAY PHASE AUTHORIZATION

Before the LPA may begin making offers to individual landowners to acquire any necessary property and commence with relocation activities, a federal authorization to begin the right of way phase must be obtained. During the period prior to issuance of right of way authorization, the LPA may perform title examinations, appraisals, appraisal reviews, and other preliminary work leading up to but not including negotiation for and making an offer to purchase the property. Projects which have received a Programmatic Categorical Exclusion (PCE) are not required to receive a PM-130 form or right-of-way re-evaluation form at the right-of-way authorization stage.

To obtain the Right of Way Phase Authorization, the LPA must submit, to the VDOT project coordinator, the following:

- A final set of Right of Way Plans, title sheet signed by the LPA Employee Responsible for the Project.
- A completed and signed RW-301 Right of Way and Utilities Review Checklist.
- A cost estimate, including a utilities cost estimate, broken down by utility company.

After a review of the right of way plans and verification of funds, VDOT will issue a right of way authorization for the project. The authorization will be provided to the Regional Right of Way Manager who will, through the VDOT project coordinator, provide to the LPA. At this point the LPA may begin making offers to the individual landowners to acquire the necessary property and commence with relocation activities.

On projects where there are no federal or state funds involved, VDOT does not issue a right of way authorization.

VDOT Responsibilities:

For Federal Aid Project:

- *Complete PM-130 and submit to District RW and Environmental Sections for review. For those items on the form which are not applicable to LPAs, note with a N/A*
- *Project Coordinators will complete the LD-368 after they have reviewed the LPA's Right-of-Way plans and submit the full package for R/W authorization.*
- *Environmental will perform the environmental re-evaluation and notify the project coordinator of results of review as outlined in Chapter/Section 15.11 of this manual*
- *Ensure the R/W Plans and RW 301 have been submitted to Central Office L&D Division for review*

- *Ensure federal authorization is obtained and provide the LPA with a written notice that federal right-of-way authorization has been obtained and provide the LPA with a copy of the federal agreement*

For State Aid/ VDOT Maintained projects:

- *VDOT will review plans solely to verify that the LPA is only acquiring necessary lands to build and maintain the project*

16.6 RIGHT OF WAY ACQUISITION

16.6.1 Fair Market Value

Prior to commencing appraisal work on parcels required for the project, the appraiser must provide the owner or the owner's representative a certified letter of intent to enter upon the property for the purpose of inspection and allow them the opportunity to accompany the appraiser on the inspection in accordance with Virginia Code requirements. The owner must also be given a written explanation of the LPA's land acquisition procedure. The LPA must use VDOT's brochure entitled "A Guide for Property Owners and Tenants" if they do not already have a VDOT approved brochure of their own.

All appraisers must be licensed and perform their work in accordance with Uniform Standards of Professional Appraisal Practices (USPAP). The appraiser must sign his/her report establishing fair market value of the property being acquired. A separate licensed appraiser must perform an appraisal review and signify by their signature approval or disapproval. The LPA project manager grants final approval to the appraisal by their signature.

16.6.2 Property Negotiations

A written appraisal establishing just compensation must be approved as described in the previous section prior to the start of negotiations with the landowner.

At the first negotiation contact with the landowner, the LPA must provide the owner(s) with a copy of the approved appraisal and certified title examination. Documentation must be included in the project file to indicate that this action occurred for each parcel.

The written offer must be made in the full amount of the appraisal and contain a summary for its basis. Afterwards, the landowner must be given a reasonable time, generally a minimum of 30 days, to consider the offer.

A written diary of all contacts with the landowner and the events that occur must be maintained in the project file and be available for review by VDOT and/or FHWA.

If the landowner offers to donate their property, they must be notified that they are eligible for payment and the amount of that payment. This should be documented in the written diary of contacts.

All properties shall be acquired in the name of the LPA, and the LPA shall condemn under its own authority. Unless otherwise agreed to, underlying fee will remain with the LPA.

16.6.3 Relocations

It is often necessary for individuals, families, businesses, farms, and/or non-profit organizations to be displaced. A comprehensive program of services and benefits has been established to ensure that all displacees are relocated in a timely and successful manner and are treated fairly, consistently, and equitably under the federal Uniform Relocation Assistance and Real Property Acquisition Act. In order to maintain the project schedule, all relocations should be completed at least 90 days prior to the advertisement date for construction.

The following mandatory provisions must be met during the relocation process and are detailed further in VDOT's Right of Way Manual, Section 6.4.1:

- **The acquiring agency (State, LPA, private developer) must inform the potential displaced person at least 90 days in advance of the earliest date by which he or she may be required to move.**
- **Assurance by the acquiring agency (state, LPA, private developer) that a displaced person will not be required to move until the agency has made available at least one comparable, decent, safe and sanitary dwelling.**
- **The acquiring agency must provide a general, written information notice to all displacees which provides a general description of the agency's relocation program.**
- **The acquiring agency must advise, in writing, all occupants of improved property (residential and non-residential), after the initiation of negotiations, that they may be eligible for relocation benefits.**
- **The acquiring agency must provide relocation advisory services. This entails determining the needs of the person or business to be displaced and making every effort to meet the identified needs; explaining the relocation program and appropriate relocation assistance payments; explaining the eligibility requirements for each relocation type; providing specific services such as (a) current listings, including sale prices or monthly rent, of replacement properties appropriate for residences, farms or businesses; (b) information concerning federal and state housing; (c) assistance in obtaining and completing applications or claim forms for relocation payments; and (d) transportation for displaced persons to inspect potential relocation housing, if needed.**
- **Provide relocation assistance payments, which are designed to compensate displaced persons for costs that have been imposed on them by federally funded projects. These payments fall into two broad categories (residential and nonresidential) with several subcategories. Included in the residential housing payments category are moving expense payments, replacement housing payments and last resort housing payments. Included in the nonresidential category are moving expense payments and reestablishment payments.**

- **The acquiring agency must inform the relocatee of his or her right to appeal the agency's determination of benefits under the relocation program.**

A Relocation Assistance Report is required on all projects. The report should indicate the impact the relocations will have on families, businesses, communities, employees, etc., and the associated costs. It should also indicate the time frame anticipated to complete the relocations. An example of the Relocation Assistance Report is found in Appendix D. If the project has no relocations, the Relocation Assistance Report should indicate such.

Specific information regarding relocation assistance requirements can be found in 49 CFR Part 24 and the FHWA *Real Estate Acquisition Guide for Local Public Agencies (http://www.fhwa.dot.gov/realestate/lpaguide/index.htm)* and also in the VDOT R/W Manual chapter 6.

16.7 RIGHT OF WAY CERTIFICATION PRIOR TO ADVERTISEMENT

Prior to project advertisement, a ***"Right of Way Certification Letter"*** (Appendix B) must be completed by the LPA. This also applies even if no right of way is required for the project. The Right of Way Certification Letter certifies that all right of way acquisition and relocation activities have been completed. The letter is to be completed prior to, and as a condition of, receiving authorization to proceed to advertise the project for construction. The LPA submits the letter to the VDOT project coordinator who, in turn, coordinates with the Central Office Right of Way Division to certify that the Right of Way and Utilities are ready for advertisement. A copy of this letter will be sent to the Regional Right of Way Manager.

Typically, the Right of Way Certification Letter is completed prior to the Plan, Specification & Estimate (PS&E) submittal.

VDOT Responsibilities

- *When the LPA submits their Right of Way and Utilities Certification letter, the P.C. will forward the letter to the Central Office Right of Way Division, with a cover memo requesting Right of Way Certification for Advertisement. The Central office Right of Way Division will forward a copy of the letter to the Regional Right of Way Manager.*
- *After receiving a written notice of Right of Way Certification, the P.C. will forward the written notice to the LPA.*

16.8 PROPERTY MANAGEMENT

FHWA regulations for the property management function are found in 23 CFR 710 Subpart D. These regulations apply to all real property acquired by LPAs in connection with projects where Federal funds participate in any right of way costs for the project. Federal funds can participate in the costs incurred in leasing, rental, maintenance, the disposal of improvements and the clearance of the property. Federal funds can also participate in the demolition of improvements, the elimination of pests, the removal of hazardous materials, and other work necessary to clear structures from the project area.

The LPA is responsible for the preservation of the improvements and for reasonable safety measures when it has acquired ownership and possession of the property. Acquired right of way must be maintained in a manner which will prevent, minimize, or correct problems such as illegal dumping or disposal of rubble, debris, etc. on cleared right of way until needed for construction.

16.9 CHANGES TO LIMITED ACCESS

Limited access highways are defined under Section 33.1-57 of the Code of Virginia (1950), as amended. The power and authority of the Commonwealth Transportation Board (CTB) regarding limited access highways is established under Section 33.1-58 of the Code of Virginia (1950), as amended and is reserved solely to the CTB.

Regulations for changes to limited access are found in Virginia Administrative Code Title 24, Agency 30, Chapters 80, 150 and 401. The regulations found in Chapters 80 and 150 apply to all changes in limited access as authorized by the Commonwealth Transportation Commissioner. All other changes to limited access are considered changes to limited access control as outlined in chapter 401.

LPAs are responsible for preserving and maintaining limited access as established for any highway incorporated into a City or Town, and must adhere to the aforesaid regulations of the Virginia Administrative Code and Section 33.1-58 of the Code of Virginia (1950), as amended.

LPAs must follow the regulations found in the aforesaid chapter 80 and Land Use Permit Manual for changes to limited access for any highway incorporated into a City or Town.
LPAs must request and receive approval for changes to or to discontinue limited access control from any highway incorporated into a City or Town under Section 33.1-58 of the Code of Virginia (1950), as amended.

The LPA will need to submit a request package to the project coordinator for any changes to limited access control (LAC) as outlined in 24 VAC 30-401. Those generating the request or compiling the packages for submission to the District Office for review will need to include all items from the list below: Please see the said Policy (24 VAC 30-401) for who should be providing the Global Traffic Analysis, Environmental Report, etc.

1. Letter requesting the proposed LAC from the Requestor.
2. A summary of the proposed LAC to include: Citing its location(s), stationing, turning movements, length of the break, median breaks, whether left/right turn lanes will be required, their location, and if they are dual or single, whether acceleration/deceleration/transition lanes will be required and where, and any signalization required. Also to be included are conditions of approving the proposed LAC from a design standpoint.
3. A copy of the Global Traffic Analysis of the proposed LAC.

4. Approval of the said analysis and the plans for construction of the proposed LAC and any conditions of the proposed LAC approval from a traffic engineering standpoint.
5. A copy of the most recent project and acquisition project plan sheets marked with the proposed LAC location to include beginning and end stations and showing location of items in number 2 above.
6. Approval of the signalization portion of the said analysis and any conditions of the proposed LAC.
7. Copies of deeds or certificates with final order and recorded plats (in color) for the land and limited access rights VDOT acquired where the proposed LAC is located.
8. A copy of the Environmental Report regarding the proposed LAC.
9. A summary from the LPA's Environmental Section citing approval of the report and any conditions of the proposed LAC from an environmental standpoint. This should include whether the location of the proposed LAC is within an air quality non-attainment area and if so whether the proposed LAC has been through the air quality conformity review, provide a copy of that report and cite the findings in the summary. Also if there is to be additional right of way acquired as a result of the proposed LAC, cite whether the area to be acquired was included in the original NEPA document for the project and provide that determination in the summary. If not included in the original NEPA document for the project then determine if one is needed and so state and provide a copy when complete.
10. Copies of the letter or resolution of support of the proposed LAC from the LPA.
11. Copies of the Public Notice(s) regarding the proposed LAC to include the closing date for comment and copies of any comments that were received.
12. Letter to the District Administrator from the LPA Right of Way Manager citing whether value will be added to the property adjoining the proposed LAC and a copy of the valuation in a format in accordance with USPAP standards supporting these findings.

The package when submitted to the project coordinator will be reviewed by the various District Sections with conclusions summarized and submitted to the District Administrator. A letter from the District Administrator to the Chief Engineer summarizing

the findings and recommending approval or rejection of the proposed LAC will be accompany the package when submitted to the Chief Engineer.

FHWA has oversight of any limited access located on Interstate.. FHWA regulations for limited access are found in the Code of Federal Regulations 23, and Subsection 645, Subpart B (accommodation of utilities – please remove unless feel necessary) VDOT Central Office works with the FHWA regarding any LACC requests received from the District where FHWA will have any oversight.

16.10 FEDERAL POLICIES FOR RIGHT OF WAY COST REIMBURSEMENT

16.10.1 Acquisitions

The eligibility of right of way acquisition costs are generally determined by the limits of the right of way. In general, costs for parcels inside the right of way are eligible, those outside are ineligible. However, there are some exceptions to the basic rule that must be dealt with on an individual basis (e.g., an improvement which needs to be removed would be eligible for reimbursement). VDOT's District Right of Way manager can provide additional information regarding these exceptions.

- Acquisition of Uneconomic Remnants: After Federal authorization has been granted for a project, if during the course of acquiring the right-of-way for the project, there is a case involving a partial acquisition of a larger tract of land that will leave the owner with an uneconomic remnant (little or no utility or value to the present owner), the acquiring agency must offer to acquire the remnant and no further federal authorization is necessary.
- Acquisition of Property Specifically For Exchange: Acquisition of property specifically for exchange occurs where the LPA agrees to obtain property for the grantor in exchange for the required right of way. This occurs primarily in connection with public utilities or public agencies where substitute property is acquired by the LPA to replace property required for the project. Both properties must be appraised. The costs of such acquisition are chargeable directly to the Right of Way Capital Outlay expenditure authorization. This type of acquisition is

treated as acquisition of replacement property. **Without prior Federal approval, reimbursement cannot be obtained.**

- Functional Replacement: This involves the replacement of real property in public ownership, either lands or facilities, or both, acquired for a highway project with other lands or facilities which will provide equivalent utility. FHWA has specific procedures which must be followed and requirements which must be met if the costs for a functional replacement property are to be reimbursed. These procedures are discussed in detail in 23 CFR § 710.509.
- Generally, costs for the purchase of personal property are ineligible for Federal reimbursement.

Prior to requesting authorization to advertise a project for construction, the LPA must submit The Right of Way Certification (Appendix 16-B) to the VDOT project coordinator stating that all right of way has been acquired (including all relocations and building structures) and all utilities have been relocated (or provision for relocation has been made in the construction of the project) or that construction is going to take place on existing right of way and no utilities are effected. The project coordinator will provide this information to the District Right of Way manager, who will forward this letter to the Right of Way and Utilities Division so that the project can be certified for advertisement. Additional details regarding Advertisement and Award Authorizations are found in chapter 12.6.

16.11 VDOT MONITORING AND COMPLIANCE VERIFICATION PROCESS

In addition to on-going project approvals, LPAs will be subject to post-project audits to ensure compliance with applicable provisions of the Uniform Act for federal-aid projects. Appendix C of this chapter contains a checklist of specific items that may be subject to audit by VDOT and/or FHWA.

16.12 LOCAL GOVERNMENT SUBMITTALS/FILE DOCUMENTATION

Task/Submittal/File Documentation	***Locality Responsibility***	***VDOT Responsibility***	***Submittal Timing/Recordkeeping Requirements***
Right of Way Cost Estimate(s)	Prepare and submit to PM	N/A	Submitted at Scoping and updated every 90 days through PCES
Right of Way Authorization Submittal package (16.5)	N/A	N/A	Prior obtaining federal right of way phase authorization and before Right of Way acquisition activities begin;
Right of Way Authorization	N/A	Provide written authorizations of Right of Way activities	Provide written authorizations of Right of Way activities; authorizations generally will be issued within 15 business days of receipt of complete package by the LPA (16.3)
Right of Way and Utilities Certification for Advertisement and Construction (16.7) ; Appendix 16B	N/A	N/A	Prior to obtaining authorization for advertisement and prior to submittal of PS&E Package
Right of Way Certification	Certify that R/W is complete	Approve certification for advertisement and construction	Concurrence with Certification will be issued within 5 business days of an acceptable certification from LPA (16.7).

16.13 REFERENCES

- 23 CFR 771.129
- 49 CFR 24
- 23 CFR 645.111
- VA Code § 33.1-94
- 42 USC chapter 61 (Uniform Act)
- 23 CFR 710
- 23 USC

- VDOT Right of Way Manual of Instructions
- Real Estate Acquisition Guide for Local Public Agencies, FHWA

Appendix 16-A

Right of Way Authorization Request
RW-301/EQ-201

Project: _____

UPC ID: _____

RIGHT OF WAY AND UTILITIES REVIEW CHECKLIST TO
CONFIRM INCLUSION OF THE FOLLOWING ON RIGHT OF WAY PLANS:

NOTE: INDIVIDUAL LANDOWNERS ARE YET TO BE CONTACTED. CONTACT MAY RESULT IN FUTURE REVISIONS TO SUCH ITEMS AS LANDOWNER NAMES, PROPERTY LINES, TOPOGRAPY AND REVISIONS IN DESIGN TO MITIGATE IMPACTS TO INDIVIDUAL PROPERTIES. IF NOT APPLICABLE, PLEASE LEAVE YES AND NO BOXES BLANK AND INDICATE N/A UNDER COMMENTS.

1. Termini correct and agree with Project Pool

   ☐ YES ☐ NO

   Comments:

2. Right of Way Data Sheet

   ☐ YES ☐ NO

   Comments:

3. Plan note worded as "These plans are unfinished and are not to be used for any type of construction."

   ☐ YES ☐ NO

   Comments:

4. Property owners' names, deed reference and acreage

   ☐ YES ☐ NO

   Comments:

5. Parcel numbers, D-numbers, Sign numbers

   ☐ YES ☐ NO

   Comments:

6. Existing right of way and/or prescriptive easement shown

   ☐ YES ☐ NO

   Comments:

7. Existing utilities identified and located and utility companies listed on Sheet 3

   ☐ YES ☐ NO

   Comments:

8. Topography (i.e., property and lot lines, cemeteries, septic systems, wells, landscaping, fences, above ground improvements, underground storage facilities, etc.)

☐ YES ☐ NO

Comments:

9. Affected structures and other improvements clearly located and identified, including those beyond the project limits but impacted by the acquisition

☐ YES ☐ NO

Comments:

10. Entrances (existing and proposed entrances, including alignments, grades and impact)

☐ YES ☐ NO

Comments:

11. Prior recommendations by Right of Way and Utilities Division have been incorporated in the plans

☐ YES ☐ NO

Comments:

12. Proposed right of way and proposed easements, including utility easements

☐ YES ☐ NO

Comments:

13. Metes and bounds surveys furnished for proposed rights of way/easements on properties as required for special properties (refer to *Design Manual* for specific section that addresses this issue)

☐ YES ☐ NO

Comments:

14. Mitigation/storm water management areas identified during scoping/PFI and Public Hearing are clearly labeled (this should be verified with the Environmental Division for mitigation and Location and Design Hydraulics Section for storm water)

☐ YES ☐ NO

Comments:

15. Sound wall assessment complete and walls/easements located on plans (this should be verified with the Environmental Division)

☐ YES ☐ NO

Comments:

16. Traffic control/signalization right of way/easements and roadway lighting identified (this should be verified with the Traffic Engineering Division)

☐ YES ☐ NO

Comments:

17. Entire property is shown for purchase of residue

☐ YES ☐ NO

Comments:

18. Total take/total acquisition properties shown in their entirety

☐ YES ☐ NO

Comments:

19. Proffers and dedications indicate on plans (Land Development review)

☐ YES ☐ NO

Comments:

20. Hazardous Materials Due Diligence Certification EQ-121 attached.

☐ YES ☐ NO

Comments:

VIRGINIA DEPARTMENT OF TRANSPORTATION HAZARDOUS MATERIALS DUE DILIGENCE CERTIFICATION FOR LOCALLY ADMINISTERED PROJECTS (EQ-121)	FORM EQ-121 (Revised 2/27/09) UPC: _____ Project: _____

I. APPLICABILITY:

This form must be completed by the LPA and submitted to the VDOT District Environmental Manager who will use this as documentation to support the Environmental Certification (Form EQ-103) and/or PS&E Re-evaluation (Form EQ-200) for any construction project. No project will receive certification to advance to construction until the form is received.

II. CONDITIONS:

The LPA shall complete this form when all hazardous materials-related issues have been identified and addressed for the project. It is not necessary that all hazardous materials issued be resolved prior to submission of this form, however, a plan must be in place to ensure resolution. This form must be submitted prior to acquiring project Right-of-Way. All existing right of way, or properties to be acquired for use as right of way, must receive an appropriate level of study. This includes existing VDOT right of way, locality-owned, proffered, or donated properties.

III. CERTIFICATION:

I hereby certify that:

(1) [Insert Locality Name] has performed studies, analyses, reviews and/or investigations of hazardous materials–related issues for all properties that it has acquired or intends to acquire for the project. Such studies, investigations, etc. constitute an appropriate level of inquiry to identify the likely presence of any hazardous substances or petroleum products or conditions that indicate an existing release, a past release, or the material threat of a release of hazardous substances into the soil, groundwater or surface water of the property or adjacent properties, or the presence of such impairments associated with buildings or structures. The following lists the consultants and reports that were utilized in the conduct of the due diligence studies:

Consultant	Title of Consultant Report	Report Date

(2) (Choose one of the following):

☐ No potential or actual contaminated environmental media or other environmental impairments that would affect construction were identified within the project right-of-way.

☐ Actual or potential environmental impairments have been noted on the following properties and as indicated, a cost estimate(s) of potential remediation/closure activities to meet state and/or federal regulations is provided as well as an indicator of any coordination made with the Virginia Department of Environmental Quality and/or the U.S. Environmental Protection Agency:

Property	Parcel Number	Agency Coordination?	Closure/Remediation Estimate
		☐ Yes ☐ No	$
		☐ Yes ☐ No	$
		☐ Yes ☐ No	$

		☐ Yes ☐ No	$
		☐ Yes ☐ No	$
		☐ Yes ☐ No	$
		☐ Yes ☐ No	$

Attach additional pages as necessary.

(3) Where actual or potential environmental impairments have been identified, appropriate actions have been taken (or will be taken) to address these issues in terms of avoidance, containment, management, minimization or remediation. Where such actions are required to be taken during construction, appropriate contract provisions have been/will be developed to incorporate those costs as pay items in the contract.

(4) Estimated costs for regulatory closure/remediation have been/will be taken into consideration in determining fair market value for properties to be acquired.

(5) All structures will be inspected for the presence of asbestos-containing materials (ACM) and any regulated ACM will be removed in accordance with state and federal requirements.

(6) The construction contractor will be made aware of any environmental issues that may be encountered during construction and will be provided access to any study results to assist the Contractor in developing and implementing appropriate Employee Health and Safety measures.

Certification provided on behalf of [Locality] by:

_____ Date: _____

Local Official

_____

Title

Appendix 16-B

Right of Way Certification Letter

Date

District Administrator/ Attn: Project Coordinator:
District Address
Project Number
City

Subject: Project Certification

Dear District Administrator:

Reference is made to the master agreement between the {locality} _____ and the Virginia Department of Transportation (VDOT) dated _____. This project consists of: (complete description from beginning to end of the location and the type of project, i.e. relocation of families and businesses, curb and gutter, intersection improvement, etc.)

This will certify that all right of way has been obtained and that the locality has legal right of entry onto each and every parcel for the advertisement and construction of Project _____. (***OR***: This will certify no additional right of way is required for Project _____.)

Also, this will certify that utility conflicts on the above project have been adjusted. (***OR*:** There are no known utility conflicts on this project. ***OR:*** Utility conflicts on the above project will be adjusted by the advertisement date, (date). ***OR:*** Utility work that is to be performed during highway construction will be covered by a special provision or utility plan inclusion in the contract assembly.)

All displacees have been offered comparable, decent, safe, and sanitary housing within their financial means open to all persons regardless of race, color, religion, sex or national origin. Also, all displacees were informed of the amount of supplemental payments available to them and provided sufficient time to negotiate for and obtain possession of housing. (***OR:*** No persons, businesses or nonprofit organizations were displaced by the right of way acquisition for this project; therefore, relocation assistance was not required.)

There are no railroads affected by the proposed construction. (***OR:*** The railroad agreement has been secured.
All buildings are vacant and available for removal by the road contactor. (***OR***:, There are no buildings affected by the proposed construction.)

In addition, to the best of our knowledge, there are no contaminants within the soil on the right of way within the referenced project limits.

Further, all the right of way was acquired in accordance with VDOT Right of Way and Utilities Manuals of instruction. Any exceptions have been previously approved in writing

by VDOT. (If Federal Funds participate in this project, reference to FHWA requirements should also be included.)

_____
Locality Representative

_____
Date

Attachments: EQ-103 (attached by VDOT project coordinator)
Construction Checklist (Criteria for Construction Authorization)

Appendix 16-C

LPA Checklist

LPA Checklist for Uniform Act Compliance

Local Government:

Project:

General Requirements			
PLANNING AND PREPARATION:	Acceptable	Concern	N/A
Prepare parcel files			
Research title			
REQUESTS AND APPROVALS:			
Request authorization for incidental right of way reimbursement			
Apply for hardship/advance purchases (if any)			
Receive environmental clearances			
Receive authorization to acquire right of way			
COMPLETING THE ROW PROCESS:			
Provide notices of Public Hearings, as appropriate			
Provide landowners Statement of Rights			
Value property rights (Appraisal or Appraisal Waiver Process)			
Values reviewed (Appraisal or Appraisal Waiver Process)			
Develop Relocation Assistance Offers			
Provide good faith negotiations			
Offer Relocation Assistance			
WRAPPING UP:			
All parcels acquired or condemned			
Secure possession of all parcels			
Clear all properties			

Parcel Specific Valuation Review			
Project: Parcel #:			
Basics of Appraisal:			
Owner offered opportunity to accompany			
5-year delineation of title provided			
Tenants identified and considered			
Adequate property information provided			
Appropriate selection of appraisal format			
The Report:			
Applicable approaches to value developed			
Discussion as to why approaches not developed			
Persuasive highest and best use analysis			
Adequate support for all conclusions			
Non-compensable items ignored			
Tenant owned improvements identified			
Allocation of major leasehold interests			
Review Appraiser:			
Reviewer competent for assignment			
Errors were identified			
Fair Market Value supported			
Differences between appraisals reconciled			
Appropriate actions taken on appraisal in adequacies			
Appraisal Waiver (Compensation Estimates)			
Uses of compensation estimates were appropriate			
Approved process utilized			
Competent person provided estimate			
Compensation Estimate reviewed			
Other remarks:			

Parcel Specific Acquisition Review			
Project: Parcel #:			
OFFERS:			
Original offer not less than approved value			
Revised offers if original offer modified			
30-day and 90-day notices within offers			
Statement of Rights provided			
Tenant offers			
DOCUMENTATION:			
Completed contracts or agreements			
Negotiation contact notes			
Copies of all negotiation correspondence			
Explanatory administrative settlement			
Breakdown of payments			
Applicable estimates			
Evidence of good faith negotiations			
Compensation estimates approved			
Other comments or concerns:			

Parcel Specific Relocation Review			
Project: Parcel #:			
GENERAL:			
General Information provided			
Services offered and furnished to displacee			
Relocation benefits explained to displacee			
NOTICES:			
Comparable dwellings available at displacement			
Notice of eligibility issues			
90-day and 30-day notices issued			
OFFERS:			
Offers of all applicable benefits to owner			
Offer of all applicable benefits to tenant			
Replacement Housing Payment (RHP) or basis of offer provided in writing			
Replacement DSS (Decent, safe and sanitary) inspection prior to move			
REIMBURSEMENTS:			
Moving costs paid			
Appropriate incidentals paid			
Increased mortgage computed and paid			
RHP paid to owner			
RHP paid to tenant			
CONCLUSIONS:			
Appeal process explained			
Notice of eligibility issues			
90-day and 30-day notices issued			
Appellant notified in writing of determination			
Absence of discrimination			
Other remarks:			

Appendix 16-D

Relocation Report Sample Forms

M E M O R A N D U M	
DATE:	Route: <<(Route_Text)>>
	State Project: <<(Project_Number_Text)>>
TO: Mr. <<(System_Rw_Util_Mgr_Name)>>	Federal Project No.: N/A
ATTN: A. Dale Perez	From: <<(Limits_From)>>
	To: <<(Limits_To)>>
FROM:	County: <<(Project_City_County_Name)>>
<<(District_Name)>>	UPC: <<(Upc_Id)>>
RE: RIGHT OF WAY – RELOCATION ASSISTANCE REPORT	

Reference is made to ‘s memorandum dated requesting relocation information on the above project.

This is to advise that no families, persons, businesses, farms or non-profit organizations will be displaced by this project. There building and personal property located within the proposed right of way.

Should you have further questions, please advise.

cc: Ms. C. D. Akins

Mr. J. R. Cromwell (CO Environmental)

CO Civil Rights Division

, Residency Administrator

<<(Ld_Engineer_Name)>>

[District Environmental]

MEMORANDUM		
DATE:		Route: <<(Route_Text)>>
		State Project: <<(Project_Number_Text)>>
TO:	Mr. <<(System_Rw_Util_Mgr_Name)>>	Federal Project No.: N/A
ATTN:	A. Dale Perez	From: <<(Limits_From)>>
		To: <<(Limits_To)>>
FROM:		County: <<(Project_City_County_Name)>>
	<<(District_Name)>>	UPC: <<(Upc_Id)>>
RE:	RIGHT OF WAY – STAGE I RELOCATION ASSISTANCE REPORT	

I. PURPOSE

This report is an estimate of the number of families, persons, businesses, farms and non-profit organizations being displaced by the proposed project; an estimate of available decent, safe and sanitary replacement facilities and other information pertaining to relocation. This report and estimates are made without the benefit of individual contacts with the affected property owners. This report is being submitted per 's request dated .

The Environmental Quality Division will use this report for the purpose of making a determination as to the type of environmental document that needs to be prepared. The Right of Way Division will use this report in accordance with federal requirements to implement a relocation plan.

II. ESTIMATE OF EXISTING CONDITIONS AND RELOCATION COSTS

A. Families

1. Number of families displaced and average number of persons per family

2. Tenure of the occupant

3. Types of occupancy (owner/tenant)

4. Estimated income range

5. Minority and/or ethnic groups

6. Disabled persons

7. Elderly persons or large families

8. Effect on community

9. Impact on neighborhood and local housing market

10. Housing of Last Resort

11. Description of available housing in area

B. Businesses, Farms and Non-Profit Organizations

1. Number and description of businesses, farms and non-profit organizations displaced

2. Type of occupancy (owner/tenant)

3. Number of employees

4. Effect on community and local economy

5. Description of available replacement locations

The total estimated cost of relocation for this project is shown on the attached sheet.

III. RELOCATION PLAN

A. Inspection of the project area

B. Federal or community programs planned for area that could affect replacement facilities.

IV. GENERAL RELOCATION PLAN

A. Orderly and satisfactory relocation

B. Special relocation advisory services

C. Time required to complete relocation

We trust the above information is satisfactory for your needs; however, should you need additional data, please advise.

Attachment
cc: Ms. C. D. Akins
Mr. J. R. Cromwell (CO Environmental)
CO Civil Rights Division
[District L&D Engineer]
[District Environmental]
, Resident Engineer

RELOCATION ASSISTANCE REPORT

RELOCATION COST SUMMARY

ROUTE: <<(Route_Text)>>
STATE PROJECT: <<(Project_Number_Text)>>
FEDERAL PROJECT: N/A
FROM: <<(Limits_From)>>
TO: <<(Limits_To)>>
County: <<(Project_City_County_Name)>>
UPC: <<(Upc_Id)>>

		NO. OF UNITS	MOVING COSTS	SEARCH COST	RE-ESTABLISH-MENT COST	REPLACEMENT HOUSING PAYMENT	TOTAL COST
Families	Owner		$			$	$
	Tenant		$			$	$
Individuals	Owner		$			$	$
	Tenant		$			$	$
Businesses	Owner		$	$	$		$
	Tenant		$	$	$		$
Farms	Owner		$	$	$		$
	Tenant		$	$	$		$
Non-Profit Organizations	Owner		$	$	$		$
	Tenant		$	$	$		$
PERSONAL PROPERTY			$				$
TOTAL RELOCATION COST			$	$	$	$	$

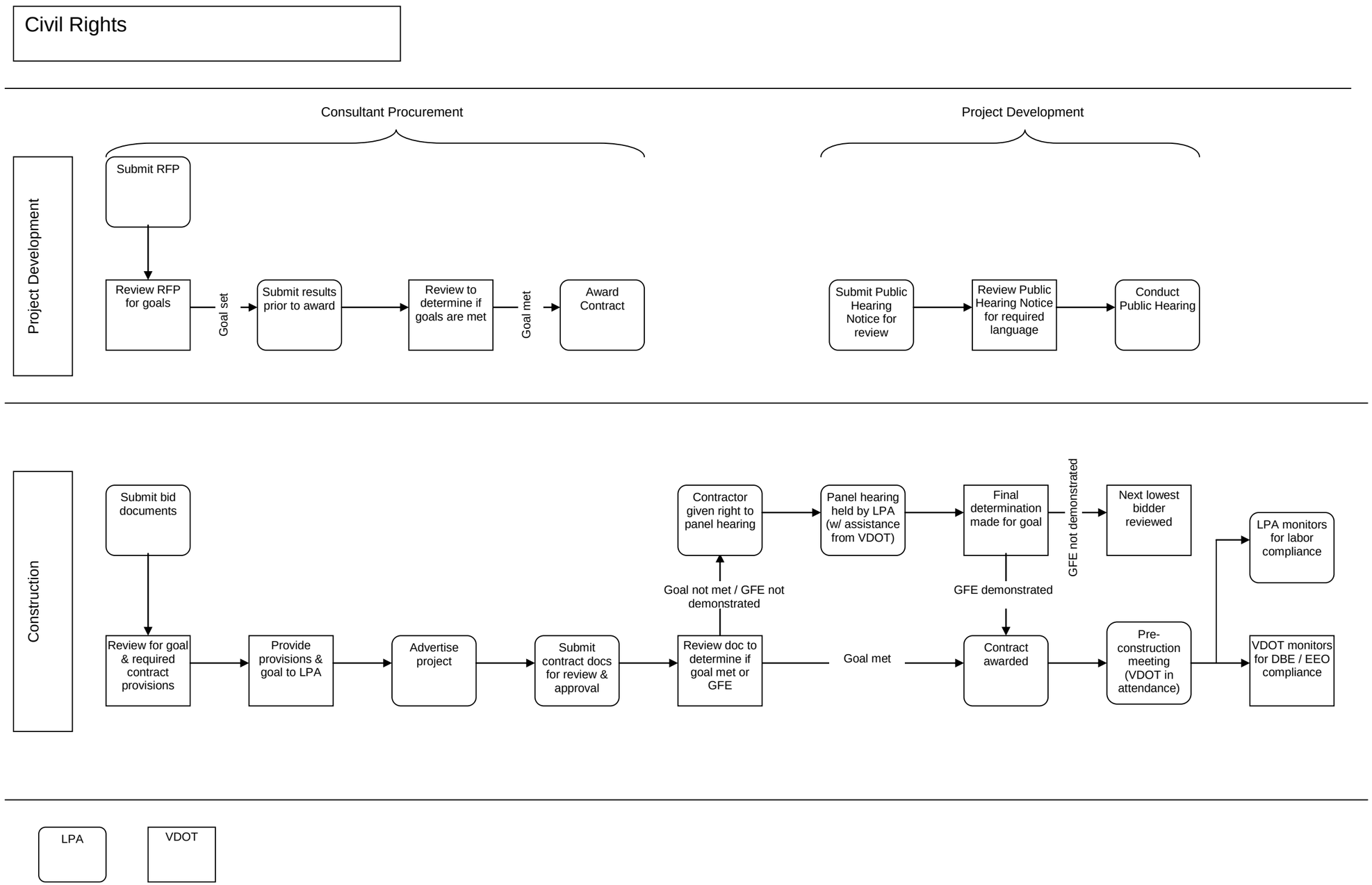
Locally Administered Projects (LAP) Manual

PART 3

Standards and practices for LAP

Chapter 17

Civil Rights and DBE


Civil Rights
Consultant Procurement
Project Development
Project Development
Submit RFP
Review RFP for goals
Goal set
Submit results prior to award
Review to determine if goals are met
Goal met
Award Contract
Submit Public Hearing Notice for review
Review Public Hearing Notice for required language
Conduct Public Hearing
Construction
Submit bid documents
Review for goal & required contract provisions
Provide provisions & goal to LPA
Advertise project
Submit contract docs for review & approval
Review doc to determine if goal met or GFE
Goal not met / GFE not demonstrated
Contractor given right to panel hearing
Panel hearing held by LPA (w/ assistance from VDOT)
Final determination made for goal
GFE not demonstrated
Next lowest bidder reviewed
GFE demonstrated
Goal met
Contract awarded
Pre-construction meeting (VDOT in attendance)
LPA monitors for labor compliance
VDOT monitors for DBE / EEO compliance
LPA
VDOT

Chapter 17
Civil Rights Requirements

This chapter includes the following topics:

17.1 General Civil Rights Requirements
- 17.1.1 Introduction
- 17.1.2 Applicability
- 17.1.3 Submittals
- 17.1.4 References

17.2 General Title VI Requirements and Executive Orders
- 17.2.1 Title VI Assurances
- 17.2.2 Title VI – Environmental Justice and the Public Involvement Process
- 17.2.3 Limited English Proficiency (LEP) (EO 13166)

17.3 Required Contract Provisions
- 17.3.1 Nondiscrimination Provision
- 17.3.2 FHWA 1273 for Construction Projects
- 17.3.3 USDOT 1050.2 Title VI Assurance
- 17.3.4 Equal Employment Opportunity
- 17.3.5 DBE Special Provision (for Construction Projects Only)
- 17.3.6 Affirmative Action to Ensure Equal Employment Opportunity
- 17.3.7 Prevailing Wage Rates for Construction Projects

17.4 DBE Requirements
- 17.4.1 Disadvantaged Business Enterprises (DBE) Policy
- 17.4.2 Certification
- 17.4.3 DBE Goal Setting Process
- 17.4.4 Good Faith Efforts
  - 17.4.4.1 Anticipated Actions
  - 17.4.4.2 Administrative Reconsideration
  - 17.4.4.3 Substitutions
  - 17.4.4.4 Non-Compliance
- 17.4.5 Bidders' DBE Obligations
  - 17.4.5.1 Commitments
  - 17.4.5.2 Subcontractor Supplier Solicitation and Utilization

17.5 On the Job Training (OJT) for Construction Projects

17.6 Compliance and Reporting
- 17.6.1 Compliance Reviews
  - 17.6.1.1 Equal Employment Opportunity (EEO) Contractor Compliance
  - 17.6.1.2 DBE Compliance Review
  - 17.6.1.3 Labor Compliance
- 17.6.2 Posters (Construction and Professional Services)
- 17.6.3 Reporting
  - 17.6.3.1 Equal Employment Report
  - 17.6.3.2 Trainee Information

Appendix 17A – Required Contract Provisions and Forms Matrix
Appendix 17B – EEO Bulleting Board Posters for Civil Rights
Appendix 17C – Civil Rights Requirements During Construction

17.1 GENERAL CIVIL RIGHTS REQUIREMENTS

17.1.1 Introduction

This chapter sets out the processes and responsibilities associated with Civil Rights for federal-aid projects. These procedures are intended to support LPA compliance with Title VI of the Civil Rights Act of 1964, as amended and all other presidential executive orders, rules and regulations governing nondiscrimination, equal employment opportunity, the Disadvantaged Business Enterprise (DBE) and On the Job Training (OJT) Programs. This chapter contains checklists of civil rights requirements for contract provisions. The chapter also contains a checklist of civil rights requirements to be monitored during construction.

There are Civil Rights responsibilities throughout the life of the project. The following Civil Rights guidelines are intended to provide fast, easy access to federal-aid and state construction program regulations, policies, and guidance. As a recipient of federal funds, the LPA is responsible for ensuring nondiscrimination in the administration of all of its projects and must adhere to all Civil Rights requirements. VDOT's Civil Rights Office ensures that the Virginia Department of Transportation's (VDOT) policies related to Equal Employment Opportunity (EEO), Nondiscrimination, Training, and Disadvantaged Business Enterprises (DBE) and Small, Women, and Minority-owned (SWaM) businesses are carried out. VDOT's Civil Rights Office monitors compliance with contractual affirmative action requirements both prior to and after award of a contract.

17.1.2 Applicability

All federal-aid projects must follow the processes defined in this chapter.

State-aid projects must include the civil rights requirements defined in Title 2.2, chapter 43 of the Code of Virginia (the Public Procurement Act) and other applicable state laws. The LPA will certify adherence to those requirements as noted in chapter 5 (state-funded projects) of this manual.

17.1.3 Tasks/Submittals Table

Task/Submittal/File Documentation	***Locality Responsibility***	***VDOT CR Responsibility***	***Submittal Timing/Recordkeeping Requirements***
Project Scope and applicable environmental documents	• Submit scoping documentation to PM	Review to ensure compliance with Title VI	N/A
Consultant Procurement	• Submit RFP for review and possible goal setting	Review RFP	Review complete within 10 days.
Public Hearing	• Post and send notice for public hearing to PM. • Schedule Public hearing in accessible location.	Review public hearing notice. May attend meeting to ensure compliance with Title VI, ADA and Section 504 of Rehabilitation Act	N/A
Project estimate/ bid proposal	• Submit a detail estimate or task breakdown to DCRO for insertion of proper contract language and goal review (DBE and OJT)	Insert proper documents and establish goal(s) if appropriate	Locality submittal required 60 days prior to advertisement CR review completed within 20 days of receipt if all required information is received from Locality. Appendix 17A lists required contract provisions
Bid documents/ pre-award	• Submit contract/subcontract agreements to DCRO for review	Review documentation to determine goal or if GFE met	Civil Rights review completed within 20 days of receipt of documents.

Preconstruction meeting	• Submit copy of executed contract to the District Civil Rights Office including all relevant DBE forms as identified on the Required Contract Provisions and Forms Matrix. (C-48 and Form C-111 - Minimum DBE Requirements) prior to work beginning. • Submit copies of all subcontract agreements and Form C-111 - Minimum DBE Requirements per applicable Special Provision. • Invite the District Civil Rights Office to the preconstruction meeting.	Attend preconstruction meeting to review CR requirements and forms	N/A
Construction	• Administer CR Program Areas (DBE,OJT and EEO) during project	Conduct compliance review on each DBE on project for DBE compliance and each contractor for EEO compliance. EEO Reviews are done per contractor with federal project somewhere in the state annually. So if a contractor has more than one project, only one review has to be conducted, not one per project.	DBE reviews required on each DBE at least once during the life of the project. EEO reviews required on contractor at least once during the life of the project.
Conduct Labor Compliance Review	• Review contractor's certified payrolls. • Davis-Bacon interviews with employees.	N/A	At some point during the life of the project.

17.1.4 References

Title VI of the Civil Rights Act of 1964, as amended	29 CFR Part 1614
FHWA 1273	29 CFR Part 1625
Executive Order (EO) 11246 as amended by Executive Order 11375	41 CFR Part 50
USDOT 1050.2 – Appendix A	41 CFR Part 60
Executive Order 12898	49 CFR Parts 21, 23, 26, and 27
Executive Order 13166	Section 504 of the 1973 Rehabilitation Act
23 CFR Parts 200, 230, and 633	Restoration Act of 1987
29 CFR Part 3	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
29 CFR chapter V	The Federal Aid Highway Act of 1973
29 CFR Part 790.5	The 1975 Age Discrimination Act

Other Helpful References

Davis-Bacon and Related Acts Guidance
2002 or 2007 Virginia Department of Transportation Road and Bridge Specifications (Sections 110.02, 110.03, 110.04, 110.06, 518 or 102.01,107.14, 107.15, 518 respectively)
Special Provision for Section 107.15
Construction Directive Memoranda (CD) such as 2000-6
DBE Program Plan
United States Department of Labor Poster Matrix
Virginia Construction Alliance OJT Trainee Classification Booklet
Code of Virginia Section 2.2-4201
Code of Virginia Section 2.2-4311
Code of Virginia Section 51.5-40
Code of Virginia Section 51.5-41
Code of Virginia Section 51.5-44
Virginia Department of Labor and Industry
Virginia Employment Commission
Virginia Workers Compensation Commission
Virginia Department of Minority Business Enterprises
VDOT Civil Rights Division - DBE Information

17.2 GENERAL TITLE VI REQUIREMENTS AND EXECUTIVE ORDERS

17.2.1 Title VI Assurances

The LPA agrees that it will comply with the Regulations of the United States Department of Transportation (USDOT) and the Code of Virginia relative to nondiscrimination. The LPA must ensure that no person shall intentionally or unintentionally because of race, color, national origin, sex, or disability be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity including, but not limited to, in the selection and retention of contractors, procurement of materials and leases of equipment.

17.2.2 Title VI – Environmental Justice and the Public Involvement Process

Environmental justice refers to the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to transportation programs, policies, or activities. Fair treatment means that minority and low-income groups should not bear a disproportionate share of the negative environmental impacts of government actions. Executive Order 12898 (Appendix C) requires that all federal agencies and other entities receiving federal funds identify, and address disproportionately high and adverse human health and environmental effects of its programs, policies, and activities on minority populations and low income populations. In application to transportation, environmental justice requires analysis of potential environmental impacts; full and fair public participation by identified populations in the transportation decision making process; and implementation of strategies to avoid, minimize or mitigate “significant and adverse environmental justice impacts; and procedures to prevent the denial, reduction or delay in benefits received by minority and low-income populations.”

The LPA shall ensure the data collected is utilized to examine and evaluate the equitable distribution of benefits and burdens of transportation investments. The data collected should reflect community boundaries racial, and ethnic make up, income level, sex, age, disabilities, community services, limited English proficiency populations, etc.

To ensure compliance with Title VI to environmental justice and public hearings it is the locality’s responsibility to:

- Review the project scope and applicable environmental justice documents to ensure compliance with Title VI, as amended.
- Submit the notice for public information meetings and public hearings for review. Notices will be reviewed to ensure that the meetings will be conducted at convenient and accessible locations at convenient times and that the appropriate Title VI language is included (locality ensures nondiscrimination and equal employment in all programs and activities in accordance with Title VI and Title VII of the Civil Rights Act of 1964. If you need more information or special assistance for persons with disabilities or limited English proficiency, contact ....).
- Provide the notice in foreign languages, as applicable, to communities or persons impacted if there is an LEP population according to the guidelines in 17.2.3.
- Schedule meetings in locations accessible (location, time and via public transportation) to persons with disabilities as defined under the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, and accessible via public transportation.
- Attend meetings, collecting demographic statistical data of participants (race, color, sex, and national origin) and forward any Title VI concerns or allegations to the District Civil Rights Office.

The Federal Highway Administration provides detailed legislation and guidance to ensure compliance with Title VI and Environmental Justice requirements on its, Environmental Justice Website.

This is not required for state-funded projects.

VDOT Responsibilities:

- *The project coordinator will provide project scoping and environmental documents to Civil Rights for review to ensure compliance with Title VI.*
- *Civil Rights will review documents and provide comments (if needed) within 10 days.*

17.2.3 Limited English Proficiency (LEP) (EO 13166)

EO 13166 instructs agencies and recipients to examine their services, and develop and implement processes by which LEP persons can have meaningful access to their services. A LEP person is a person who does not speak English as their primary language and has limited ability to read, speak, write or understand English. The key to providing meaningful access to LEP persons is to ensure that recipients and LEP beneficiaries can communicate effectively and act appropriately based on that communication. Thus, recipients and sub recipients of federal funding should take reasonable steps to ensure that LEP persons are given adequate information, are able to understand that information, and are able to participate effectively in recipient programs or activities, where appropriate. Reasonable steps may include providing translation services.

To determine the need for translation services, a four-factor analysis should be conducted based on the following factors:

- the number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee
- the frequency with which LEP individuals come in contact with the program
- the nature and importance of the program
- activity, or service provided by the program to people's lives; and the resources available to the grantee/recipient and costs

Sub recipients that would like greater certainty of compliance than can be provided by the four-factor analysis can utilize the “safe harbor” provision. The sub recipient can provide written translations of vital documents for each eligible LEP language group that constitutes 5 percent or 1000, whichever is less of the population of persons eligible to be served. Safe Harbor, however, does not affect the requirement to provide meaningful access to LEP individuals through oral language services if needed. Contact the District Civil Rights Office for additional information regarding translation services.

The failure to assure that people who are not proficient in English can effectively participate in, and have meaningful access to, programs and activities funded with federal dollars may constitute national origin discrimination prohibited by Title VI and implementing regulations.

Additional detailed guidance to assist LAPs in meeting LEP requirements is available by accessing the U.S. Department of Transportation LEP Web site and the VDOT LEP Guidelines Web site.

This is not required for state-funded projects.

17.3 REQUIRED CONTRACT PROVISIONS

17.3.1 Nondiscrimination Provision

Construction contractors and consultants must abide by the provisions of Title VI of the Civil Rights Act of 1964 (42 USC 2000 d). Title VI of the Civil Rights Act of 1964 declares it to be the policy of the United States that discrimination on the grounds of race, color, or national origin and other related statues shall not occur in connection with programs and activities receiving Federal financial assistance and authorizes and directs the appropriate Federal departments, agencies, and sub-recipients to take action to carry out this policy. FHWA 1273 is a required contract provision for federal-aid projects and must be physically incorporated in every federal contract. 49 CFR Parts 21, 23, 26, and 27 and 23 CFR Parts 200, 230, and 633 are incorporated by reference in all contracts and subcontracts funded in whole or in part with federal funds.

For state-funded projects, **c**onstruction contractors and consultants must abide by Title 2.2, chapter 43 of the Code of Virginia (the Public Procurement Act) that declares it to be the policy of the Commonwealth of Virginia that discrimination on the grounds of race, color, or national origin shall not occur in connection with programs and activities receiving state financial assistance.

17.3.2 FHWA-1273 for Construction Projects

FHWA-1273, “Required Contract Provisions, Federal-aid Construction Contracts,” (Appendix B) contains contract provisions and proposal notices that are required by regulations promulgated by the FHWA or other Federal agencies. The required contract provisions contained in FHWA-1273 shall apply to all work performed on the contract by the contractor's

own organization and to all work performed on the contract by piecework, station work, or by subcontract.

The contractor shall insert in each subcontract except as excluded by law or regulation, the required contract provisions contained in FHWA-1273 and further require their inclusion in any lower tier subcontract that may in turn be made. The required contract provisions of FHWA-1273 shall not be incorporated by reference in any case. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the requirements contained in the provisions of FHWA-1273.

This is not required for state-funded projects.

17.3.3 USDOT 1050.2 Title VI Assurance

USDOT 1050.2 Title VI Assurance – Appendix A (Attachment A) is required to be physically placed in each construction contract and Request for Proposal (RFP) and prohibits discrimination on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment.

In all solicitations, either by competitive bidding or negotiation, made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

This is not required for state-funded projects.

17.3.4 Equal Employment Opportunity

LPAs must ensure that all contractors comply with the applicable provisions of presidential executive orders and the rules, regulations, and orders of the President’s Committee on Equal Employment Opportunity (EEO). The contractor shall cooperate with the department in carrying out EEO obligations and in the department’s review of activities under the Contract. The contractor shall comply with the specific EEO requirements of this section and shall include these requirements in every subcontract of $10,000 or more with such modification of language as may be necessary to make them binding on the subcontractor.

This is not required for state-funded projects.

17.3.5 DBE Special Provision (for Construction Projects Only)

Any contractor, subcontractor, supplier, DBE firm, and contract surety involved in the performance of work on a federal-aid contract shall comply with the terms and conditions of the USDOT DBE Program as the terms appear in Part 26 of the Code of the Federal Regulations (49 CFR as amended), the USDOT DBE Program regulations and VDOT's Road and Bridge Specifications and DBE Program rules and regulations. Special Provision for Section 107.15 of the Specifications (Appendix B) is to be physically included in every supply or work/service subcontract and/or purchase order that it makes or executes with a subcontractor having work for which it intends to claim credit.

This is not required for state-funded projects.

17.3.6 Affirmative Action to Ensure Equal Employment Opportunity

Executive Order 11246 (EO 11246) as amended by EO 11375 (Appendix B), prohibits federal contractors and federally-assisted construction contractors and subcontractors, who perform over $10,000 in government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, or national origin. Except in contracts exempted by the Secretary of Labor in accordance with Section 204 of this Order, all government contracting agencies shall include in every government contract provisions identified in executive order 11246 as amended by EO 11375.

The Executive Order also requires government contractors to take affirmative action to insure that equal opportunity is provided in all aspects of their employment. Such action shall include, but not be limited to the following; employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

The EO 11246 is administered by the Employment Standards Administration's Office of Federal Contract Compliance Programs (OFCCP) within the U. S. Department of Labor.

This is not required for state-funded projects.

17.3.7 Prevailing Wage Rates for Construction Projects

The Davis Bacon and Related Acts (DBRA) (Appendix B) requires all contractors and subcontractors performing work on federal construction contracts or federally assisted contracts in excess of $2,000 to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts.

In addition to the Davis Bacon Act itself, Congress added Davis-Bacon prevailing wage provisions to approximately 60 laws—"related Acts"—under which federal agencies assist construction projects through grants, loans, loan guarantees, and insurance. Examples of the related Acts are the Federal-Aid Highway Acts**,** the Housing and Community Development Act of 1974, and the Federal Water Pollution Control Act. Generally, the application of prevailing wage requirements to projects receiving federal assistance under any particular "related" Act depends on the provisions of that law.

This is not required for state-funded projects.

VDOT Responsibilities:

- *The project coordinator will provide the detail project estimate and bid proposal to Civil Rights for review at least 60 days prior to advertisement.*
- *Civil Rights will provide the proper contract language within 20 days of receipt.*

17.4 DBE REQUIREMENTS

17.4.1 Disadvantaged Business Enterprises (DBE) Policy

Disadvantaged Business Enterprises (DBE), as defined in 49 CFR Part 26, must have the maximum opportunity to participate in the performance of federally funded construction contracts. A list of Virginia Department of Minority Business Enterprise certified DBE firms is

maintained on their web site DMBE under the **DBE Directory of Certified Vendors** and a list of Metropolitan Washington Airports Authority (Airports Authority) certified DBE firms are maintained on their web site (MWAA) under **DBE Directory.** Contractors are encouraged to take all necessary and reasonable steps to ensure that DBE firms have the maximum opportunity to compete for and perform services on the contract, including participation in any subsequent supplemental contracts. If the contractor intends to subcontract a portion of the services on the project, the contractor is encouraged to seek out and consider DBEs as potential subcontractors. The contractor is encouraged to contact DBEs to solicit their interest, capability and qualifications. Any agreement between a contractor and a DBE whereby the DBE promises not to provide services to other contractors is prohibited.

If portions of the services are subcontracted to a DBE, the following needs to be submitted with the bid:

- Written documents of the prime's commitment to the DBE to subcontract a portion of the services, a description of the services to be performed and the percent of participation.

- Written confirmation from the DBE that it is participating, including a description of the services to be performed and the percent of participation.

49 CFR Part 26 requires VDOT to collect certain data about firms attempting to participate in VDOT contracts. This data must be provided on the Form C-48 for construction projects and the Firm Data Sheet for professional/nonprofessional services

VDOT is also required to capture DBE payment information on all contracts. The successful prime contractor will be required to complete Form C-63 for federally funded projects on a quarterly basis.

Any DBE firm must become certified (with the Virginia Department of Minority Business Enterprise or Metropolitan Washington Airports Authority) prior to the response being submitted. If a DBE is the prime contractor, the firm will receive full credit for planned involvement of their own forces, as well as the work that they commit to be performed by DBE

subcontractors. DBE prime contactors are encouraged to make the same outreach efforts as other contractors. DBE credit will be awarded only for work actually being performed by them. When a DBE prime contractor subcontracts work to another firm, the work counts toward DBE goals only if the other firm is itself a DBE. A DBE prime contractor must perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own forces.

DBE certification entitles contractors to participate in VDOT's DBE programs. However, this certification does not guarantee that the firm will obtain VDOT work nor does it attest to the firm's abilities to perform any particular work.

This is not required for state-funded projects.

17.4.2 Certification

In order for a contractor to receive participation credit for utilization of a DBE on a federally funded project, the firm must meet certain eligibility criteria. Requests for DBE certification by the Virginia Department of Minority Business Enterprise (VDMBE) or Metropolitan Washington Airports Authority (Airports Authority) may be obtained by submitting the Uniform Certification Application. A listing of DBE firms may be obtained on-line at DMBE and MWAA or by contacting:

Virginia Department of Minority Business Enterprise
1111 East Main Street, Suite 300
Richmond, Virginia 23219
(804) 786-6585

Metropolitan Washington Airports Authority
1 Aviation Circle
Washington, DC 20001
(703) 417-8625

The list does not represent all DBEs available in the trade or specialty areas required by this contract, but merely those firms that have applied to VDMBE or the Airports Authority and have been granted certification.

17.4.3 DBE Goal Setting Process

The locality is to submit the detail estimate for the proposed project, which includes the work activities and their associated costs, and the final total cost assigned to the project to the project coordinator to be submitted to the District Civil Rights Office no later than 60 days prior to advertisement for DBE goal determination and to ensure proper contract language and documents/forms are included.

The District Civil Rights Office will provide comments and establish the DBE goal within 20 working days if all required information is received from the locality for review.

Once a construction project has been advertised and bids received, the locality will forward the DBE information regarding DBE participation commitment from the lowest responsive and responsible bidder to the appropriate District Civil Rights Office. Once a professional or non-professional services contract has been advertised and a firm has been selected, the locality will forward the DBE information regarding DBE participation commitment to the project coordinator for review and recommendations regarding award of the project. The award of all bids must adhere to federal regulations, as promulgated in 49 CFR Part 26, Part 23 and the Department's Special Provision for Section 107.15 (Appendix B) of the Virginia Department of Transportation's Road and Bridge Specifications (Specifications) relative to 'good faith efforts' by contractors/consultants in attaining the required DBE participation. Prior to award, contractors/consultants are required to achieve the established DBE goal or demonstrate that a good faith effort has been made to achieve the goal. After award, the locality will submit a copy of the signed contract and supporting DBE information to the project coordinator.

VDOT Responsibilities:

- *The project coordinator will provide a detail project estimate and bid documents to Civil Rights for review and goal setting.*
- *Civil Rights will review documents and establish goal (if needed) within 20 business days of receipt.*

17.4.4 Good Faith Efforts

Whether as a bidder or contractor of a federally-assisted contract, good faith efforts are required to meet the contract goal. This applies even if the bidder or prime contractor is a DBE.

When a locality has a contract goal on a VDOT-assisted contract, a bidder must, in order to be responsive and responsible, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways.

- First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose.
- Second, even if a bidder does not meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of 49 CFR Part 26 which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

No locality shall require that a bidder meet a contract goal in order to be awarded a contract. Title 49,CFR Part 26 specifically prohibits DOT financial recipients from ignoring bona fide good faith efforts.

In any situation in which a contract goal has been established, the use of good faith efforts must be allowed. Each locality must make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal.

VDOT Responsibilities:

- *The project coordinator will provide the bid tabulation and goal documentation to Civil Rights for review prior to contract award.*
- *Civil Rights will review documents and determine if goal has been met or good faith effort has been made within 20 days of receipt.*

17.4.4.1 Anticipated Actions

The following types of actions should be considered by a locality as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

- Soliciting through all reasonable and available means (e.g., attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

- Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goal will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

- Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

- Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why agreements could not be reached for DBEs to perform the work.

- Rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

- Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

- Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

- Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as the contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

17.4.4.2 Administrative Reconsideration

If the goal is not met, a bidder must, in order to be responsible and/or responsive, have made good faith efforts to meet the DBE goal by documenting commitments for participation by sufficient DBE firms, or document adequate good faith efforts to actively and aggressively obtain participation by a sufficient number of DBE firms. An administrative review (see Section

26.53, CFR 49 Part 26) and judgment call of the good faith efforts should be made prior to award in each instance by the locality. If the locality determines that the apparent successful bidder/offeror has failed to meet the good faith requirements, the local agency must, before awarding the contract, provide the bidder/offeror an opportunity for administrative reconsideration in accordance with Section 26.53, CFR 49 Part 26.

Locality must not use a “conclusive presumption” approach, in which the apparent successful bidder is summarily found to have failed to make good faith efforts simply because another bidder was able to meet the goal. However, the performance of other bidders in meeting the contract can be a relevant factor in a good faith effort determination, in more than one way. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. It does not, by itself, prove that the apparent successful bidder did not make a good faith effort to get DBE participation. On the other hand, if the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, the department may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

VDOT Responsibilities:

- *The project coordinator will advise Civil Rights if an Administrative Reconsideration Panel has been requested.*
- *Civil Rights will provide technical assistance with the Administrative Reconsideration Panel, as needed.*

17.4.4.3 Substitutions

After a contract has been executed, which specified goals for DBE participation, adequate good faith efforts are required for any needed substitution of DBE subcontractors to the extent needed to meet the contract goal.

Localities must require that a prime contractor not terminate for convenience a DBE subcontractor and then perform the work of the terminated subcontract with its own forces or those of an affiliate, without the locality's prior written consent. When a DBE subcontractor is terminated, or fails to complete its work on the contract for any reason, the locality must require the prime contractor to make good faith efforts to find another DBE subcontractor to substitute for the original DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal.

17.4.4.4 Non-Compliance

Local agencies must include in each prime contract a provision for appropriate administrative remedies that will be invoked if the prime contractor fails to comply with the good faith efforts requirements during the contract.

17.4.5 Bidders' DBE Obligations

17.4.5.1 Commitments

Bidders shall identify in their construction bid (on Form C-111, Minimum DBE Requirements or Proposal), (Appendix E), all of the DBEs identified to participate in the project, regardless of their percent of participation. The Form C-111 and C-112 (Appendix E) shall be completed and submitted in accordance with Special Provision 107.15 of the Specifications for construction contracts. DBE firms must be certified by either VDMBE or the Airports Authority.

The Bidder shall list on the Form C-111 (Appendix E) the names of each DBE sub consultant, subcontractor, hauler, manufacturer or supplier which the Bidder intends to credit toward the DBE goal. If the prime contractor or consultant is a DBE firm, the required documentation must reflect such. The following information must be listed on the Form C-111:

- the complete legal business name as it appears on the Directory of Certified Vendors;
- the certification number;
- the type and item numbers of work or task description to be performed;

- each DBE's participation in the contract, expressed as amount of allowable credit per item/task in dollars or percentages at the first submittal of a proposal;
- the percent of work for each DBE on the Form C-111 (Appendix E). The percent allocated for each DBE must be in accordance with commercially useful function provisions;
- the total dollar and the total participation expressed as a percentage of the total bid price. These totals shall include the sum of the following:
- the value of all proposed DBE subcontracts used for credit on the project; and
- the dollar value of all materials and supplies to be provided by DBEs (to be credited as noted above).

The successful bidder on a construction contract is required to submit a fully executed Form C-112 (Appendix E) within two (2) working days after the bids have been opened and the determination of apparent lowest bidder. The Firm Data Sheet is required for consultant contracts.

17.4.5.2 Subcontractor Supplier Solicitation and Utilization

It is a requirement that all vendors, both primes and DBEs who intend to submit a bid as a prime, submit a Form C-48. The form must be completed by each bidder in detail, as the information is sent to the Federal Highway Administration to better track DBE outreach efforts.

17.5 ON THE JOB TRAINING (OJT) FOR CONSTRUCTION PROJECTS

The contractor shall take all necessary and reasonable steps to ensure training and upgrading of minorities, women, veterans, and other disadvantaged persons toward achieving journeyman status within a given construction trade in accordance with Section 518 of the Specifications. The OJT program seeks to reduce overhead costs associated with training through a stipend reimbursement to the contractor while offering the opportunity to enhance short and long term workforce needs. The contractor will be reimbursed per hour per trainee.

The OJT program requires full utilization of all available training and skill-improvement opportunities to assure the increased participation of minority groups and disadvantaged persons and women in all phases of the highway construction industry. It is the intent that each contractor's workforce and construction site should reflect the same diversity as the community.

The DCRO will set a trainee goal for highway construction projects prior to advertisement. The DCRO will approve all trainee enrollments to ensure disadvantaged persons are given opportunities for training utilizing Form C-65 and subsequently recorded on Form C-67. Trainee work classifications and the requirements of each will follow those already developed by the Virginia Transportation Construction Alliance ("VTCA"). Copies of the OJT Trainee Classification Booklet may be obtained by contacting VTCA.

This is not required for state-funded projects.

VDOT Responsibilities:

- *The project coordinator will provide the detail project estimate and bid proposal to Civil Rights for review.*
- *Civil Rights will review documents and establish OJT goal, as needed.*

17.6 COMPLIANCE AND REPORTING

17.6.1 Compliance Reviews

Activities on construction projects are monitored through compliance reviews conducted by VDOT to ensure contractors comply with contract requirements and must be coordinated with Construction Project Monitor (ACE).

VDOT Responsibilities:

- *The project coordinator will ensure that Civil Rights is provided with a copy of the executed contract and is invited to the Preconstruction Meeting.*
- *Civil Rights will attend the Preconstruction Meeting.*

17.6.1.1 Equal Employment Opportunity (EEO) Contractor Compliance

EEO compliance reviews are conducted by the VDOT to ensure that all contractors and subcontractors awarded work meet contractual Equal Opportunity ("EO") requirements under Executive Order 11246, as amended, 23 U.S.C. Section 140, FHWA 1273 (23 CFR Part 633), Specifications Section 107.14 and Title VI of the Civil Rights Act of 1964, as amended. All contractors and subcontractors will submit to the DCRO the required information such as EEO Policy, EEO Officer, EEO meeting minutes, company employment (Form C-64) and monthly project site employment reports (Form C-57) as indicated in Section 107.14 of Roads and Bridges Specifications.

VDOT Responsibilities:

- *Civil Rights will perform EEO review of the contractor at least once during the life of the project.*

17.6.1.2 DBE Compliance Review

The contractor must take every reasonable step to ensure that DBEs committed to perform work under contract perform a commercially useful function ("CUF"). It is the VDOT's responsibility to determine compliance with the commercially useful function requirement that is described in 49 CFR Part 26.55. The DCRO will monitor construction activity to ensure that DBE firms are performing work in accordance with federal regulations. The DCRO will conduct DBE Compliance Reviews on each DBE firm performing work for goal attainment on each project. Compliance monitoring includes: site visits, review of documents such as material tickets, subcontracts, lease agreements, etc. and any other information needed to render a compliance determination.

VDOT Responsibilities:

- *Civil Rights will perform a DBE review of the contractor at least once during the life of the project.*

17.6.1.3 Labor Compliance

The locality must take every reasonable step to ensure that employees are paid in accordance with Davis-Bacon and Related Acts. Under the provisions of the Act, contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character. It is the contractor's responsibility to determine compliance with prevailing wage rates as described in 29 CFR Part 1, Part 3, and Part 5. **The locality is responsible for conducting all Labor Compliance Reviews to verify certified payrolls**. However, oversight responsibility rests with VDOT. Projects with a contract value greater than $2,000, except for those off the right of way, on urban and rural local roads, or rural collector roads will be reviewed to determine compliance with the Davis-Bacon Act.

VDOT Responsibilities:

- *Civil Rights will review documentation of the locality's review and provide comments as needed.*

17.6.2 Posters (Construction Projects and Professional Services)

Virginia and federal laws require bulletin board posters to be posted in the workplace for the benefit of employers and employees. Each poster must be displayed in a conspicuous place where employees and applicants for employment can see it. Two bulletin boards must be displayed at all locations even if there are no eligible employees. Appendix 17-B lists all required posters.

17.6.3 Reporting

17.6.3.1 Annual Employment Report

All contractors and subcontractors having a contract or subcontract of at least $10,000 or more is required to submit an annual employment report (Form C-57) to the DCRO in accordance with 23 CFR Part 230.121. The report reflects all employees on site during the last pay period of July during which work is performed. This information will be

submitted to the DCRO on Form C-57 indicating number of the employees in each work classification, by race and gender. All employees on site must be accounted for by race and gender for journeymen level, trainees and apprentices.

The annual employment report will be submitted to the DCRO via the locality by the contractor for each federally assisted project no later than the second week of August.

17.6.3.2 Trainee Information

VDOT requires that the contractor maintain records and documents of trainee enrollments to include: name of trainee, race, gender, trainee work classification, hourly wage rates, start date, completion date and wage increments as training progresses. This information will include reason(s) trainees do not complete the training program and number of dropouts and terminations prior to completion of the training program. WEEKLY trainee records will be submitted to the DCRO via the locality's inspector on Form C-67. Information on the Form C-67 is utilized as documentation to support reimbursement for hours of training provided during the estimate period.

The DCRO will maintain records and documents supporting the reimbursements to contractors for each trainee hour achieved via the OJT program. These records will include: contractor's name, project number, location of project, name of trainee(s), trainee(s) work classifications, and number of hours completed by each trainee(s). The Civil Rights Certificate of Achievement will be presented to each trainee completing the OJT program. Copies of these certificates will be part of the OJT trainee records.

If the Contract has a stipulation or requirement for trainees, the contractor shall submit to the locality semiannual training reports in accordance with the instructions shown on the forms furnished by the department. If the contractor fails to submit such reports in accordance with the instructions, his monthly process estimate for payment may be delayed.

Appendix 17A - Required Contract Provisions and Forms Matrix

	Applicable with Funding Source		Construction		Professional Services		Required in contract
Document	**Federal**	**State**	**With Goal**	**W/O Goal**	**With Goal**	**W/O Goal**	
FHWA 1273	●		●	●			●
EO 11246	●		●	●	●	●	●
USDOT 1050.2 Title VI Assurance Appendix A	●				●	●	●
Form C-28 - Basic Hourly Rate Paid By Contractor	●	●	●	●			
Form C-48 - Subcontractor/Supplier Solicitation and Utilization Form	●	●	●	●			●
Form C-49 - DBE Good Faith Efforts Documentation	●		●		●		●
Form C-56 (WH-348) - Statement of Compliance	●	●	●	●			
Form C-57 -Highway Construction Contractors Monthly EEO Report	●	●	●	●			
Form C-58 - Notice on Title 18 US Code Section 1020	●		●	●			
Form C-59 - Wage Rate Information	●		●	●			
Form C-63 - DBE/SWaM Payment Compliance Report	•		●	●	●	●	
Form C-64 - EEO Information Request	●	●	●	●			
Form C-65 - Trainee Enrollment Form On-the- Job Training	●		●	●			
Form C-67 - Weekly Trainee Report	●		●	●			
Form C-111 - Minimum DBE Requirements	●		●	●			●
Form C-112 Certification of Binding Agreement	●		●	●			●
Firm Data Sheet	●				●	●	●
Title VI Report	●				●	●	●
Davis-Bacon Prevailing Wage Rates	●		●	●			●
Section 107.13 - Labor and Wages of the 2007 Virginia Road and Bridge Specifications	●		●	●			
Special Provision for Section 107.15 Use of Disadvantaged Business Enterprises (DBEs)	●		●				●
Section 107.15 Use of Minority Business Enterprise (MBE) of the 2007 Virginia Road and Bridge Specifications	●						●
Section 518 of the Specifications Trainees on Construction Projects of the 2007 Virginia Road and Bridge Specifications	●		●	●			
DBE Policy Statement	●		●	●	●	●	●

Appendix 17B - EEO Bulletin Board Posters for Civil Rights Requirements

Poster	Federal Project	State Project
EEOC-P/E-1 (Equal Opportunity is the Law)	•	•
Contractor's EEO Policy Statement	•	•
Actual Davis Bacon Wage Rates (Prevailing Wages)	•	
FHWA 1022 ("NOTICE" Federal Aid Projects)	•	
FHWA 1495 (Wage Rate Information)	•	
FHWA 1495A (Wage Rate Information-Spanish Version)		
USDOT 1321 ("Notice to Employees" on federally funded projects)	•	
WHD 1088 (Federal Minimum Wage Rate)	•	

Appendix 17 C – Civil Rights Requirements During Construction

Form	Purpose / Description	Frequency	Prepared by	Signed by	Verified by (also signs form prior to submission)	Document Preparer to submit original form to	Document Preparer to submit copy of form to	Reviewed by	Provision (Reference for Requirement)
		All Subcontractor Agreement(s)							
C-65	Trainee Enrollment Form	Prior to trainee beginning work	VDOT Civil Rights [3]	Trainee, Contractor, Local Government Construction Inspector, VDOT Civil Rights	VDOT Civil Rights [4]	Local Government	VDOT - Civil Rights [5]	VDOT - Civil Rights	FHWA 1273 IV (4)(b)(3) 2007 VDOT Rd. & Br. Specs §518.02 (b) CD 94-4
C-67	Weekly Training Report	Weekly when training provided	Contractor or sub-contractor who hired trainee	Contractor or Subcontractor	Local Government	Local Government (Contractor should submit to Co, then Co verify and submit to VDOT)	VDOT - Civil Rights [7]	VDOT - Civil Rights	2002 VDOT Rd. & Br. Specs §518.03
		DBE (Disadvantaged Business Enterprise)							
C-111	Minimum DBE Requirements	Once - received with bid proposal	Contractor	Contractor	n/a	Local Government	VDOT - Civil Rights	VDOT - Civil Rights	49 CFR Part 26, CD2002-2
C-112	Certificate of Binding Agreement	Once - received with bid proposal	Contractor	Contractor	n/a	Local Government	VDOT - Civil Rights	VDOT - Civil Rights	49 CFR Part 26, CD2002-2
All Subcontractor Agreement(s)	Ensure consistency with C-112. This is a subcontract between the prime and the subcontractor. All subcontract agreements must have FHWA-1273 attached.	Before work begins	Contractor	n/a	n/a	Local Government	VDOT - Civil Rights	VDOT - Civil Rights [8]	FWHA-1273
Schedule B	DBE Compliance Program	As needed when significant change in work patterns, crews, equipment, etc.	Locality Inspector	Locality Inspector	n/a	VDOT - Civil Rights	Local Government	VDOT - Civil Rights	Construction Division Memorandum CD 2002-2 CD 2000-4 DBE Compliance Instructional Guide
DBE Liaison Designation	Point of contact	Every six (6) months	Contractor	n/a	n/a	Local Government	VDOT - Civil Rights	VDOT - Civil Rights	2007 VDOT Rd. & Br. Specs §107.14
DBE Activity Narrative	Document DBE activity	Within 30 days after NTP and prior to 1st estimate	Contractor	Contractor	n/a	Local Government	VDOT - Civil Rights [10]	VDOT - Civil Rights	2007 VDOT Rd. & Br. Specs §107.14
C-63	DBE Payment Compliance Report	Quarterly, five days after quarter ends: October 5, January 5, April 5, and July 5.	Contractor	Contractor	n/a	Local Government	VDOT -Civil Rights	VDOT - Civil Rights	49 CFR Part 26, 2007 VDOT Rd. & Br. Specs §107.15, CD 2007-5, CD 2007-6, CD 2002-2
		Contractor/Subcontractor Responsibilities - EEO (Equal Opportunity)							
C-64	Contractor /Subcontractor Equal Employment Opportunity Information Request	Posted to CRD Portal per Contractor; submitted to CO CRD every six months as long as contractor has active contract	Contractor or Subcontractor [11]	Contractor or Subcontractor [11]	n/a	Local Government	VDOT Civil Rights	VDOT - Civil Rights	2007 VDOT Rd. & Br. Specs §107.15 CD 97-20
Company EEO Meeting Minutes	Document meetings where contractor reviews and explains EEO policies to employees	Posted to CRD Portal per Contractor; submitted to CO CRD every six months as long as contractor has active contract	Contractor or Subcontractor [11]	Contractor or Subcontractor [11]	n/a	Local Government	VDOT - Civil Rights [13]	VDOT - Civil Rights	FHWA-1273, 2007 VDOT Rd. & Br. Specs §107.14 CD 97-20
Equal Opportunity Officer Designation	Contractor designates an employee to promote and implement the contractor's EEO Program	Posted to CRD Portal per Contractor; submitted to CO CRD every six months as long as contractor has active contract	Contractor or Subcontractor [11]	n/a	n/a	Local Government	VDOT - Civil Rights [14]	VDOT - Civil Rights	FHWA-1273, 2007 VDOT Rd. & Br. Specs §107.14 CD 97-20
C-57	Total Project Employment	Monthly during 1st three (3) months of project activity and annually by August 15 for last payroll period preceding July month end	Contractor or Subcontractor [11]	Contractor or Subcontractor [11]	VDOT Civil Rights [15]	Local Government	VDOT - Civil Rights	VDOT - Civil Rights	FHWA-1273, 2007 VDOT Rd. & Br. Specs §107.14
		Labor Compliance							
C-28	Hourly Wage Rates	Prior to second estimate. Every 90 days throughout project.	Contractor and Subcontractor[16]	Contractor and Subcontractor[16]	Locality Inspector	Local Government	Kept on-site	VDOT - Civil Rights	FHWA-1273(IV)(1), Davis Bacon Act Fair Labor Standards, 2007 R&B Spec. §107.13
Davis Bacon Worksheets	These worksheets are to make sure employees are earning the amount listed on the payroll. This excludes superintendents, foremen and clerical.	One random interview per quarter that may include prime and/or subcontractors [17]	Local Government	Local Government	n/a	Local Government	Kept on-site	VDOT - Civil Rights	FHWA-1273
Certified Payrolls	Payrolls must agree with the predetermined wage rates that are contained in the contract.	Within two (2) weeks after workweek.	Contractor and Subcontractors	Contractor and Subcontractor[16]	n/a	Local Government	Kept on-site	VDOT - Civil Rights	FHWA-1273
C-56/WH-348	Statement of Compliance	Review first payroll of prime and subs thoroughly, then as needed to ensure that conformance with wage provisions of the contract are attained. Payrolls to be sent to District Civil Rights Manager's offices	Contractor and subcontractors	Contractor and Subcontractor[16]	n/a	Local Government	Kept on-site	VDOT - Civil Rights	FHWA – 1273 (V)(3), Copeland "Anti-Kickback) Act, Davis Bacon Act, CD 2005-1
		Items Contractor to Post on Project Bulletin Board							
1) Federal Minimum Wage Poster 2) Job Safety & Health Protection Poster 3) Your Rights under the FMLA Poster		4) Employee Polygraph Protection Act Poster 7) C-60 Poster 5) C-58 Poster 8) Pre-determined wage rates (General Provisions pp. 91-94) 6) C-59 Poster 9) EEO Officer / DBE Liaison					10) EEO Policy 11) EEO is the Law Poster 12) FHWA 1022		13) FHWA 1495 & 1495a 14) USDOT 1321

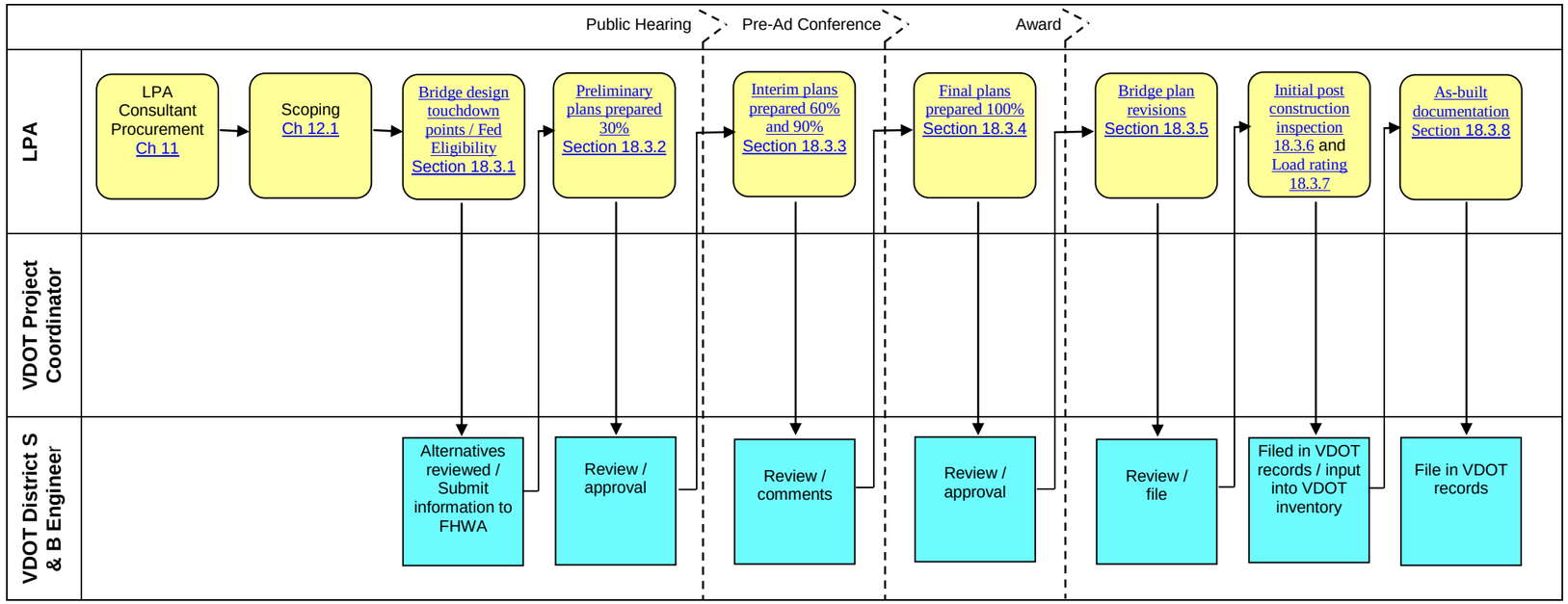
Locally Administered Projects (LAP) Manual

PART 3

Standards and practices for LAP

Chapter 18

Structure and Bridge


Public Hearing
Pre-Ad Conference
Award
LPA
VDOT Project Coordinator
VDOT District S & B Engineer
LPA Consultant Procurement Ch 11
Scoping Ch 12.1
Bridge design touchdown points / Fed Eligibility Section 18.3.1
Preliminary plans prepared 30% Section 18.3.2
Interim plans prepared 60% and 90% Section 18.3.3
Final plans prepared 100% Section 18.3.4
Bridge plan revisions Section 18.3.5
Initial post construction inspection 18.3.6 and Load rating 18.3.7
As-built documentation Section 18.3.8
Alternatives reviewed / Submit information to FHWA
Review / approval
Review / comments
Review / approval
Review / file
Filed in VDOT records / input into VDOT inventory
File in VDOT records

This chapter includes the following topics:

18.1 Introduction
18.2 Applicability
18.3 Procedures and Processes
- 18.3.1 Establishing Bridge Touchdown Points
- 18.3.2 Preliminary Bridge Plans
- 18.3.3 Interim Bridge Plans
- 18.3.4 Final Bridge Plans
- 18.3.5 Bridge Plan Revisions
- 18.3.6 Initial Inspections and Inventory
- 18.3.7 Structure Load Ratings
- 18.3.8 As-Built Documentation

18.4 Key Submittals/Requirements
18.5 References

Appendix 18-A- Submittal of As-Built Bridge Documents

Appendix 18-B- Certification of As-Built Plans

18.1 INTRODUCTION

The chapter sets out the processes and responsibilities associated with determining funding eligibility and touchdown points for bridges, submitting bridge plans for review at various stages of the plan development, performing the initial inspection of the bridge and performing the structure load ratings and submitting the as-built documentation. This chapter also identifies VDOT's role in review for bridge plans and other documents. Many of the details associated with project development are not repeated in this chapter as the focus is on those additional activities required when a project includes a bridge. **The term bridge when used in this chapter will apply to any structure not defined as a culvert and typically has a deck, superstructure and substructure components.**

There are federal funds specifically designated to be used on qualifying deficient bridges. It is very important that all bridges that qualify for these federal bridge funds are evaluated to determine eligibility and the approach touchdown points for the use of federal bridge funds. It is also very important that bridge plans are reviewed at several different stages of project development to ensure any issues are addressed at the earliest point possible and that all bridges are being designed in accordance with applicable standards. All bridges must be designed in accordance with all applicable AASHTO design specifications as well appropriate VDOT Structure and Bridge Manuals, Guides and Instructional and Informational Memoranda. Applicable references are noted in the Regulatory and Other References/Links section of this chapter. Most of the applicable VDOT manuals are available through VDOT's external Web page at Structure and Bridge Manuals .

LPA administered and maintained bridge projects shall be designed in accordance with AASHTO LRFD Design Specifications, latest edition, or seek a design exception.

18.2 APPLICABILITY

This chapter is applicable whenever a locally administered project includes any bridge(s).

18.3 PROCEDURES AND PROCESSES

18.3.1 Establishing Bridge Touchdown Points

Bridge Touchdown Points		
Federal aid	*State aid/VDOT Maintained*	*State aid/LPA Maintained*
X	*N/A*	*N/A*

Bridge touchdown points must be established for bridges that may be eligible for federal bridge funding under the Highway Bridge Program (formerly known as the Highway Bridge Replacement/Rehabilitation Project Program). This section provides guidance on determining project eligibility, establishing project limits and requesting funding approval from the Federal Highway Administration (FHWA) for such projects in accordance with the curent IIM-S&B-83-Bridge Touchdown Points.

Upon request from the LPA, VDOT will determine the eligibility of Highway Bridge Program (HBP) funding for those structures classified as Structurally Deficient or Functionally Obsolete in the Department's Bridge Inventory Records and will rely on the LPA to provide the necessary information to accomplish this. Every year the Central Office Structure and Bridge dedicated bridge fund coordinator provides a list of eligible candidate bridges to the District Structure and Bridge Engineers, and it is the responsibility of the District Structure and Bridge Engineers to submit their final disrictwide candidates for Highway Bridge Program (HPB) funds. They will coordinate with Residencies and Localities when submitting their annual prority lists.

When requesting funding for federal-aid projects, the LPA will submit the scoping report and the current bridge inspection report (for bridges maintianed by the LPA) to the VDOT Project Coordinator, along with a request for determination of funding eligibility and a completed form SB107 (Federal Highway Bridge Funding Program Determination of Touchdown Points). The VDOT Project Coordinator will then submit the data to the District Structure and Bridge Engineer.

VDOT will then respond to the LPA and indicate whether the structure is eligible for federal funding. VDOT's actions are described below:

- *Once the candidate bridge is selected the District Structure and Bridge Engineer will submit the scoping report, current Structural Inventory and Appraisal (SI&A) record and the current inspection report to the Assistant State Structure and Bridge Engineer for Inspection of Structures. The report should include the front sheet from the road and bridge plans, if available.*

- *In addition to providing the above information, the District Structure and Bridge Engineer should:*
    - *Determine the eligibility and establish the project limits, if applicable, in accordance with the IIM-83. If the project is eligible the project coordinator should specifically say so. If the project is not eligible it should not be sent to the Central Office for review.*
    - *Submit completed Form SB107 (Federal Highway Bridge Funding Program Determination of Touchdown Points)*

- *The Assistant State Structure and Bridge Engineer for Inspection of Structures will review and approve or reject the request and, if necessary, submit to FHWA for funding approval.*

- *The Assistant State Structure and Bridge Engineer for Inspection of Structures will advise the VDOT project coordinator and Central Office dedicated bridge*

fund coordinator of the eligibility of the approach work for HBP funds for the subject project.

- *The VDOT project coordinator will notify the LPA of the VDOT/FHWA determination and availability of HBP Funds for the project.*

18.3.2 Preliminary Bridge Plans

Preliminary Bridge Plans		
Federal aid	*State aid/VDOT Maintained*	*State aid/LPA Maintained*
X	*X*	*X**

*LPA administered and maintained bridge projects shall be designed in accordance with AASHTO LRFD Design Specifications, latest edition. VDOT oversight to these designs is limited to technical assistance as requested by the LPA.

Preliminary bridge plans (also referred to as TS&L or Stage I plans) are submitted to the project coordinator prior to the Public Hearing, posting of a willingness to hold a public hearing, or the Right of Way Authorization. In addition to applicable AASHTO and VDOT Structure and Bridge Manuals, Guides and Instructional and Informational Memoranda, plan development will also conform to the plan requirements in the Manual of the Structure and Bridge Division Volume V – Part 2 Design Aids/Typical Details. If the preliminary bridge plans require a design exception or waiver, it must be submitted in accordance with the current IIM-S&B-70 Design Exceptions.

The LPA will submit the following for each bridge:

- Electronic files (.dgn and .pdf) of the Type, Size & Location Plans (to include Grade, Profile and Elevation (GP&E), Typical Section and Typical Substructure Unit Type).
- Stage I Report
- Estimated preliminary bridge cost for each bridge alternative.

- The LPA should also submit supporting documentation to facilitate the review of the preliminary bridge plans. This may include, but not limited to the following: road plans, hydrologic and hydraulic analysis (when applicable), geotechnical report and boring logs (if available) and bridge situation plans (when necessary).

After the approval of these plans by VDOT, the LPA will be given a Notice to Proceed (NTP) to continue with the final bridge design (Stage II) for each bridge on the project. VDOT will archive the approved preliminary bridge plans in VDOT's FALCON plan system.

VDOT Responsibilities:

- *The project coordinator will submit the Preliminary Bridge Plans and supportive documentation to the District Structure and Bridge Engineer for review and approval actions.*
- *VDOT will review the preliminary bridge plan submittals within fifteen (15) business days upon receipt by the VDOT project coordinator.*
- *The District Structure and Bridge Engineer or the Assistant State Structure and Bridge Engineer (Design Engineering Program Area) on Tier 2 projects will review and approve the Preliminary Bridge Plans and document approval in accordance with SB102 – Preliminary Bridge Plan Approval. Any structures requiring the Federal Highway Administration (FHWA) approval will be submitted as outlined in SB101 – Preliminary Plan Distribution to FHWA.*
- *The District Structure and Bridge office will be responsible for uploading the files to VDOT's FALCON plan system*.
- *The project coordinator will authorize the LPA to proceed with final bridge design (Stage II) upon approval of the Preliminary Bridge Plans by the District Structure and Bridge Engineer or the Assistant State Structure and Bridge Engineer (Design Engineering Program Area) on Tier 2 projects and FHWA, when applicable.*

18.3.3 Interim Bridge Plans

Interim Bridge Plans		
Federal aid	*State aid/VDOT Maintained*	*State aid/LPA Maintained*
X	*X*	*N/A*

The interim bridge plans are typically submitted at the 60 percent and 90 percent completion stages or as requested by VDOT. During the review of interim (in-progress) bridge plans (referred to as Stage II plans), VDOT provides input regarding the conformance of bridge plans and/or contract documents with AASHTO specifications and VDOT's specifications and standards to include plan requirements in the Manual of the Structure and Bridge Division Volume V – Part 2 Design Aids/Typical Details. Bridge plans completed to the 60 percent stage are submitted to VDOT for review prior to the scheduled Field Inspection (FI). Bridge plans completed to the 90 percent stage are to be submitted to VDOT for review prior to the scheduled Pre-Advertisement Conference (PAC).

The LPA will submit the following for each bridge:

- Two (2) sets of half-size prints and .pdf files of the interim bridge plans
- Estimated construction cost for each bridge

VDOT Responsibilities:

- *The project coordinator will submit the interim bridge plans to the District Structure and Bridge Engineer for review.*
- *VDOT will review the bridge plan submittals within fifteen (15) business days upon receipt by the VDOT project coordinator.*
- *The project coordinator will advise the LPA of VDOT's review comments on the interim plan submittals.*

18.3.4 Final Bridge Plans

Final Bridge Plans		
Federal aid	*State aid/VDOT Maintained*	*State aid/LPA Maintained*
X	*X*	*X**

*LPA administered and maintained bridge projects shall be designed in accordance with AASHTO LRFD Design Specifications, latest edition. VDOT oversight to these designs is limited to technical assistance as requested by the LPA.

Final bridge plans are to be submitted at the PS&E review, along with final contract documents as described in Chapter 12.6. Final bridge plans shall be developed in accordance with AASHTO Specifications and VDOT Structure and Bridge Manuals, Guides and Instructional and Informational Memoranda. Plan development will also conform to the plan requirements in the Manual of the Structure and Bridge Division Volume V – Part 2 - Design Aids/Typical Details.

Final bridge plans are to be sealed and signed in accordance with the current IIM-S&B-79 – Sealing and Signing of Plans and Documents.

The LPA will submit the following for each bridge:

- Electronic files (.dgn and .pdf) of the Contract Bridge plans
- Reproducible drawing of the sealed and signed title sheet. The title block and consultant seal will conform to Chapter 1, Section 16(Sealing and Signing of Plans) in Volume V – Part 2 - Design Aids/Typical Details of the Manual of the Structure and Bridge Division.
- Special Provisions and Copied Notes (if required)
- Estimated construction cost for each bridge, to include estimated quantities along with associated unit costs for all standard and non-standard items in the final plan submittal

VDOT Responsibilities:

- *VDOT will review ALL final bridge plans, special provisions and cost estimates within fifteen (15) business days prior to the advertisement of the project.*
- *The project coordinator will submit the title sheet to the Chief Engineer for approval (unless state funded and the LPA will maintain bridge).*

  The project coordinator will advise the LPA of the date that the plans have been approved for Construction
- *The project coordinator will submit electronic files (.dgn and .pdf files) of the Approved for Construction (AFC) plans to the District Structure and Bridge Engineer for archiving. The District Structure and Bridge office will be responsible for uploading the files into the FALCON plan system.*

18.3.5 Bridge Plan Revisions

Bridge Plan Revisions		
Federal aid	*State aid/VDOT Maintained*	*State aid/LPA Maintained*
X	*X*	*N/A*

At times bridge plans may be revised after the final bridge plan review/approval. These "field revisions" must be submitted to VDOT for review/approval in accordance with the procedures outlined in CD 2009-02 – Field Change Documentation and the Manual of the Structure and Bridge Division Volume V – Part 2 Design Aids/Typical Details, Chapter 1, Section 14 (Revisions).

The LPA must submit the electronic files (.dgn and .pdf) of the plan revision to the VDOT Construction Project Monitor and distribute plan revision to the District Structure and Bridge Engineer. The LPA will ensure that ALL required plan revisions are submitted to VDOT prior to the work being executed by the Contractor. If the field revision requires a design exception or waiver, it must be submitted in accordance with the current IIM-S&B-70 – Design Exceptions.

VDOT Responsibilities:

- *The project coordinator will submit electronic files (.dgn and .pdf files) for each plan revision to the District Structure and Bridge Engineer for archiving.*
- *The District Structure and Bridge office will be responsible for uploading the files of the revised plans into VDOT's FALCON plan system.*

18.3.6 Initial Inspections and Inventory

Initial Inspections and Inventory		
Federal aid	*State aid/VDOT Maintained*	*State aid/LPA Maintained*
X	*X*	*X*

Before a structure is accepted into the system of state highways, an initial inspection must be performed. Each structure, whether VDOT owned or LPA owned, will be inspected in accordance with National Bridge Inspection Standards (NBIS) requirements. The initial inspection is the first inspection of a structure before it becomes a part of the highway system.

The LPA will be responsible for the performance of the initial inspection if the structure is owned by the LPA and they will submit the results to VDOT.

The results of the initial inspection and inventory are to be submitted for each bridge on the project. The LPA will ensure the initial inspections and findings are documented in accordance with IIM-S&B-27 – Bridge Safety Inspections.

The LPA submits the following for each bridge:

- Initial inspection report
- Structure inventory and appraisal (SI&A) data

For structures to be maintained or owned by VDOT, the LPA must request an initial inspection prior to project close-out.

VDOT will enter the results of ALL initial inspections and inventory into VDOT's inventory database.

VDOT Responsibilities:

- *If the subject bridge will be owned and maintained by VDOT, the VDOT project coordinator will coordinate with the District Structure and Bridge Engineer to perform the initial inspections.*
- *The project coordinator will confirm that the initial inspection reports are submitted* to the District Structure and Bridge Engineer *on **ALL** bridges before the bridges are opened to traffic.*

18.3.7 Structure Load Ratings

Structure Load Ratings		
Federal aid	*State aid/VDOT Maintained*	*State aid/LPA Maintained*
X	*X*	*X*

There are very specific requirements in Section 23 Highways – Part 650, Subpart C of the Code of Federal Regulations that requires that all structures be load rated in accordance with the National Bridge Inspection Standards (NBIS). This load rating analysis shall be completed in accordance with the current IIM-S&B-86 – Load Rating and Posting of Structures (Bridges and Culverts). The LPA will ensure the "Load Rating Summary Form" is completed for each structure and that this form for all load ratings is sealed and signed by a licensed Professional Engineer registered in the Commonwealth of Virginia. VDOT will be responsible for filing the load rating reports and entering the data into the inventory database.

The LPA will submit the following to the project coordinator for each bridge:

- Load rating report which includes the "Load Rating Summary Form".
- Compact disk (CD) containing the load rating's input files for Virtis, DESCUS or other computer program approved by VDOT.

VDOT Responsibilities:

- *The project coordinator will provide the LPA with a copy of the latest safety inspection report if the LPA is required to perform a load rating on an existing structure.*
- *The project coordinator will submit load rating reports and supportive documentation for each bridge to the District Structure and Bridge Engineer for filing with the bridge safety inspection records.*
- *The District Structure and Bridge Engineer will confirm that load rating reports are submitted to VDOT before the bridges are opened to traffic.*
- *The District Structure and Bridge Engineer will confirm the appropriate data is submitted so that it can be entered into the inventory database by VDOT within sixty (60) days of opening the structure to traffic.*

18.3.8 As-Built Documentation

As-Built Documentation		
Federal aid	*State aid/VDOT Maintained*	*State aid/LPA Maintained*
X	*X*	*X**

*The LPA must retain and make the As-Built documentation available to VDOT upon request. As-Built finals and documentation should reasonably conform to the requirements outlined in Appendix 18-A, the VDOT Post Construction Manual, and the Manual of the Structure and Bridge Division listed below.

Upon completion of the project, the LPA will be responsible for the development and submittal of "As-Built" documents for each bridge as outlined in Appendix 18-A. The posting of finals and documentation will conform to the requirements of the VDOT Post

Construction Manual and in accordance with the Manual of the Structure and Bridge Division Volume V – Part 2 Design Aids Typical Details, Chapter 1 Section 15 (As-Built Plans). The as-built documentation including plans, shop drawings and bridge situation plans (when applicable) will be submitted to VDOT prior to project close and acceptance.

The LPA will ensure that the Engineer of Record (EOR) certifies that the as-built plans accurately represent field conditions; see Appendix 18B.

VDOT will be responsible for placement of as-built documentation in VDOT's FALCON system. As-Built Documentation, including as-built plans, approved shop/working drawings and Bridge Situation Plans when applicable (as required in the VDOT Survey Manual) are to be submitted for each bridge on the project.

The LPA will submit to VDOT the following for each structure:

- Electronic format of As-Built bridge plans.
- Approved Shop and Working Drawings
- Bridge Situation Plans (when applicable)

VDOT Responsibilities:

- *The project coordinator will ensure that as-built documentation for ALL bridges has been received by VDOT prior to project Close and Acceptance.*
- *The project coordinator will submit as-built documentation for each bridge to the District Structure and Bridge Engineer.*
- *The District Structure and Bridge Engineer will confirm the as-built documentation is tiffed/scanned and placed in VDOT's FALCON system.*

18.4 KEY SUBMITTALS/REQUIREMENTS

Task/Submittal/File Documentation	***LPA Responsibility***	***VDOT PC Responsibility***	***Submittal Timing/Recordkeeping Requirements***
Establishing Bridge Touchdown Points			
Submit preliminary information to initiate funding eligibility in accordance with IIM-S&B-83 – Bridge Touchdown Points	LPA submits the following to VDOT PC for each bridge: • Scoping report • Current bridge inspection report • Completed Form SB-107 – Federal Highway Bridge Program Determination of Touchdown Reports	VDOT PC submits scoping report, completed Form SB-107 and current inspection report to the District Structure and Bridge Engineer District Structure and Bridge Engineer submits scoping report, current inspection report, form SB-107 and the current Structural and Appraisal (SI&A) record to the Assistant State Structure and Bridge Engineer for Inspection of Structures VDOT PC will communicate approval of federal funds	If VDOT determines bridge is eligible for federal bridge funds, the Form SB-107 FEDERAL HIGHWAY BRIDGE FUNDING PROGRAM DETERMINATION OF TOUCHDOWN POINTS is submitted to FHWA for funding approval.
Authorization of federal bridge funds	LPA will verify federal funds are authorized before expenditures	VDOT PC will notify LPA when funds are authorized	N/A
Reviewing Bridge Plans			
Submit preliminary bridge plans (TS&L)	LPA submits the following to VDOT PC for each bridge: Electronic files (.dgn and .pdf of the Preliminary bridge plans (TS&L-Type, Size & Location) Plans .	VDOT PC submits the Preliminary Bridge Plans and supportive documentation to the District Structure and Bridge Engineer for review and approval actions. Preliminary bridge plans	Preliminary bridge plans are to be submitted to VDOT to allow review prior to the scheduled Design Public Hearing. VDOT will review the preliminary bridge plan submittals within fifteen (15)

	Stage I Report Estimated cost for each bridge alternative. Supportive documentation to facilitate the review of the plans	(TS&L) on Tier 2 projects will be sent to the Assistant State Structure and Bridge Engineer (Design Engineering Program Area) for his review and approval. VDOT PC advises the LPA to proceed with final bridge design (Stage II) upon approval of the preliminary Bridge Plans by the District Structure and Bridge Engineer or the Assistant State Structure and Bridge Engineer (Design Engineering Program Area) on Tier 2 projects.	business days upon receipt by the VDOT project coordinator.
Submit Stage II (60% and 90%) bridge plans; estimates.	LPA submits interim (in-progress) plans at the 60% and 90% completion stages for review and comments LPA incorporates appropriate changes in the final bridge plans.	VDOT PC submits the interim (in-progress) plans to the District Structure and Bridge Engineer for review and comments VDOT PC advises the LPA of VDOT's review comments on plan submittal	Stage II bridge plans are to be submitted to VDOT to allow review prior to the field inspection (60%) and pre-advertisement conference (90%). VDOT will review the Stage II bridge plan submittals within fifteen (15) business days upon receipt by the VDOT project coordinator.

Submit final bridge plans	LPA submits the following to the VDOT PC for each bridge: • Electronic files (.dgn and .pdf) of the contract bridge plans. • Reproducible drawing of the sealed and signed title sheet. • Special Provisions and Copied Notes (if applicable). • Estimated construction cost for each bridge	VDOT PC submits the final contract assembly to the District Structure and Bridge Engineer for review and approval VDOT PC submits the signed title sheet to the Chief Engineer for execution by VDOT VDOT PC advises the LPA the date the plans were "Approved for Construction". VDOT PC submits electronic files (.dgn and .pdf) of the Approved for Construction plans to the District Structure and Bridge Engineer for archiving in VDOT's FALCON plan system	Final bridge plans are to be submitted to VDOT to allow review prior to advertisement. VDOT will review the final bridge plan submittals within fifteen (15) business days upon receipt by the VDOT project coordinator.
Bridge Plan Revisions			
Bridge Plan Revisions	LPA Submits the following to the VDOT PC: • Electronic files (.dgn and .pdf) of the revised plan sheets	VDOT PC submits the revised plan to the District Structure and Bridge Engineer for archiving in VDOT's FALCON plan system	Prior to the work being executed by the contractor
Initial bridge inspection, required documentation in	LPA submits the following to the VDOT PC for each bridge if the subject bridge	VDOT PC will coordinate with the District Structure and Bridge Engineer to perform	Prior to the bridge being opened to traffic.

accordance with IIM-SB-27 – Safety Inspections	is owned and maintained by the LPA: • Initial inspection report • Structure inventory and appraisal (SI&A) data	the initial inspection if the subject bridge will be owned and maintained by VDOT. VDOT PC submits initial inspection reports to the District Structure and Bridge Engineer if the subject bridge will be owned and maintained by the LPA.	District Structure and Bridge Engineer ensures that results of ALL initial inspections are entered into the VDOT's inventory database.
Load rating report to include Load Rating Summary Form (sealed and signed)	*LPA* submits the following to the VDOT PC for each bridge: • Load rating report which includes the" Load Rating Summary Form". • Compact disk (CD) containing the load rating's input files	VDOT PC submits the load rating reports and supportive documentation for each bridge to the District Structure and Bridge Engineer.	Within 60 days of opening structure to traffic District Structure and Bridge Engineer will be responsible for entering appropriate data in the VDOT's inventory database.
As-Built documentation (Appendix 18A)	*LPA* submits the following to the VDOT PC for each bridge: • Electronic files of As-Built Bridge plans. • Approved Shop and Working Drawings • Bridge Situation Plans (when applicable)	VDOT PC submits as-built documentation for each bridge to the District Structure and Bridge Engineer District Structure and Bridge Engineer will be responsible for archiving the as-built documentation in VDOT's FALCON plan system.	Prior to project close and acceptance

18.5 REFERENCES

General

- American Association of State Highway and Transportation Officials (AASHTO) LRFD Design Specifications, 6th Edition, 2012 and VDOT Modifications
- Current IIM-S&B-80 – VDOT Modifications to the AASHTO LRFD Bridge Design Specifications, 6th Edition, 2012, including current interims.
- Manual of the Structure and Bridge Division Volume V Series
- VDOT Road and Bridge Specifications, current edition, including Special Provisions and Copied Notes
- Current Road and Bridge Standards

Bridge Touchdown Points

- 23CFR650.405 – Eligible Projects
- Current IIM-S&B-83 - Bridge Touchdown Points

Preliminary Bridge Plans

- Current IIM-S&B-19 – Bridge Project/Plan Authorization and Approval Authority
- Current IIM-S&B-70 – Design Exceptions

Interim Bridge Plans

- Current IIM-S&B-19 – Bridge Project/Plan Authorization and Approval Authority

Final Bridge Plans

- 23CFR630B – Standard Specification on Plans
- 23CFR635 – Construction and Maintenance
- Current IIM-S&B-19 – Bridge Project/Plan Authorization and Approval Authority
- Current IIM-S&B-79 – Sealing and Signing of Plans and Documents

Bridge Revisions

- Current IIM-S&B-19 – Bridge Project/Plan Authorization and Approval Authority

- Current IIM – S&B-70 – Design Exceptions
- Construction Directive Memorandum CD 2009-02 – Field Change Documentation

Initial Inspections and Inventory

- 23CFR650 Subpart C - National Bridge Inspection Standards (NBIS)
- Current IIM-S&B-27- Bridge Safety Inspections

Structure Load Ratings

- 23CFR650 Subpart C – National Bridge Inspection Standards (NBIS)
- American Association of State Highway and Transportation Officials (AASHTO) The Manual for Bridge Evaluation, Second Edition, 2011, including current Interims
- Current IIM-S&B-86 – Load Rating and Posting of Structures (Bridges and Culverts)
- Current IIM-S&B-79 -Sealing and Signing of Plans and Documents

As-Built Documentation

- VDOT Post Construction Manual, current edition
- Current VDOT Survey Manual
- American Association of State Highway and Transportation Officials (AASHTO) The Manual for Bridge Evaluation, Second Edition, 2011, including current Interims (refer to Section 2.2)

APPENDIX 18-A

SUBMITTAL OF AS-BUILT BRIDGE DOCUMENTS

Archival of Bridge Plans:

The Structure and Bridge Division utilizes the bridge plan number (Ex: 283-38) as the reference basis for the archival of bridge documents. All submittals with same bridge plan numbers should be submitted in the same assembly.

Procedure:

The following are the general guidelines to be used for the submittal of as-built bridge documents to VDOT:

- Plans submitted in electronic format will have the finals posted in accordance with the Manual of the Structure and Bridge Division Volume V – Part 2 Design Aids and Typical Details File Number 01.15-1 thru 01.15-11.
- Plans for a particular bridge are to be assembled in the following order:
    1. Design plans in electronic format shall not be renumbered.
    2. Shop Plans/Working Drawings (Ex. 21X – 42Z*)
    3. Bridge Situation Plan (if available) (Ex. 43Y, 44Y, 45Y, 46Z*)

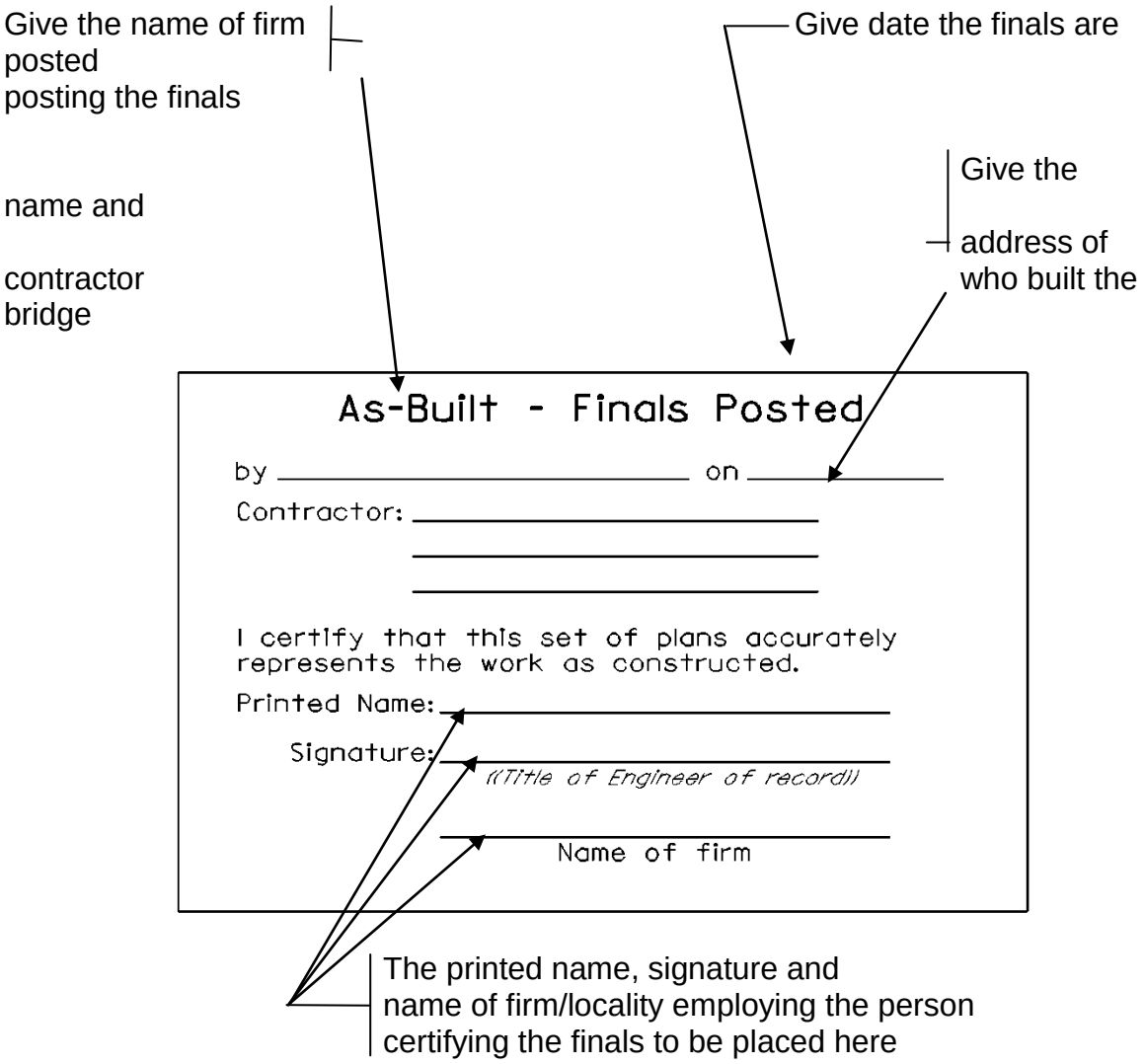
    * Suffix on last sheet in the set of paper plans, regardless of type, shall be "Z".

    The shop plans should be numbered consecutively and should be shown in pencil in the lower right-hand corner. The bridge plan number should be denoted on ALL drawings.
- Upon completion of the preparation of the "as-built" plans, a CD containing the electronic as-built documents and any paper copies of shop plans shall be transmitted to the Structural project coordinator for archiving.

APPENDIX 18-B

CERTIFICATION OF AS-BUILT PLANS

CERTIFICATION OF AS-BUILT PLANS



This block and information shown shall be located on the title sheet of each set of bridge plans certifying that the as-built plans accurately reflect the final product.

Locally Administered Projects (LAP) Manual

PART 3

Standards and practices for LAP

Chapter 19

Financial Management / Reimbursement Processing

CHAPTER 19
FINANCIAL MANAGEMENT AND REIMBURSEMENT PROCESSING

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19.1.INTRODUCTION

This chapter provides guidance for the LPA in complying with VDOT and FHWA financial requirements for federal and state-funded transportation programs and projects. This chapter includes guidance on eligible expenses and invoicing requirements.

All progress billings shall be submitted to the project coordinator by the LPA in accordance with the terms of the Project Administration Agreement (PAA). Billings will not be accepted before the PAA is executed and authorization in writing has been received from VDOT. The execution of the PAA **does not** constitute approval of federal funds. This authorization from VDOT is separate from the PAA. The PAA, when completed, establishes an account which permits billing to the project. The VDOT-assigned project number and UPC number identifies the project and must be used on all project invoices and correspondence with VDOT.

One of the fundamental requirements of VDOT and the LPA personnel is to effectively manage their programs and projects. In order to fulfill this requirement, it is imperative that the LPA staff capture project detail information accurately and record it correctly. The VDOT project coordinator should ensure the coding used on all transactions is accurate to the best of their knowledge. In addition, the project coordinator must also ensure all federally related expenditures are coded with the appropriate participating and non-participating activity codes in accordance with federal regulations.

Federal agreements between VDOT and FHWA are based upon the detailed estimates, and all expenditures that are charged to FHWA should be included on the detail estimate. In a case where the expenditure is not listed on the detail estimate, it should be coded/charged with a non-participating activity code, ie., (7XX). In special cases where FHWA has agreed to pay for exceptional items, documentation of this agreement must be forwarded to the Fiscal Division.

The Financial Integrity Review and Evaluation (FIRE) is part of the Federal Highway Administration's (FHWA's) annual certification of internal and financial controls. The purpose of the review is to assess the administration of the federal aid program and the compliance of grant payments with federal requirements.

Costs are eligible for Federal Highway Administration (FHWA) federal participation if claimed in accordance and in compliance with 23CFR and OMB Circular A-87. A list of FHWA eligible expenses is found in Appendix B. No costs may be claimed for reimbursement if incurred prior to FHWA authorization to proceed with the work. VDOT is responsible for programming work with FHWA. Expenses on state-funded only projects must be deemed necessary, reasonable, consistent treatment, and adequately documented. Direct costs to the project are generally allowable, such as materials, employees, use of equipment, consultants, and contractors. Some funding programs, such as access road projects, have additional restrictions on eligible expenses.

Compliance with the requirements set forth by the VDOT, Department of Accounts (DOA) and FHWA will ensure:

- Expenditures are accurate and properly documented
- Invoices are comprehensible and submitted timely
- Disbursements are made to the vendors
- Payments or reimbursements are received from FHWA.
- Expenditures and invoices submitted to VDOT for reimbursement are accurate and properly supported for FIRE and Audit purposes.

19.2. APPLICABILITY

- These processes are applicable to state and federally funded projects

Requirement/Task		
Federal aid	*State aid/VDOT Maintained*	*State aid/LPA Maintained*
X	*X*	*X*

19.3. PROCESSING OF INVOICES

A project level invoice, accompanied by supporting documentation or summary of expenses, should be submitted to the VDOT project coordinator no more frequently than monthly, however in order to ensure timely processing and verification of invoices, all invoices shall be submitted within 90 days after any eligible project expenses are incurred by the LPA. For federally funded projects and pursuant to the Code of Federal Regulations Title 49, Section 18.43, violations of the provision may result in the imposition of sanctions including possible denial or delay of payment of all or a part of the costs associated with the activity or action not in compliance. **The supporting documentation should include copies of invoices or a summary, as prescribed by the PC, paid by the LPA and a to-date project summary schedule, tracking payment requests and any adjustments**. When submitting the monthly invoice, the LPA should submit a statement providing the following, where applicable:

- The voucher is accurate and the payment request for satisfactorily completed work.
- All Civil Rights, Equal Opportunity, and DBE-related documentation, as applicable to the project, has been submitted.
- All applicable environmental controls are in place and are being maintained by the contractor.

- All materials used on the project during the pay period meets applicable FHWA and VDOT requirements, as applicable to federal aid and VDOT maintained projects.
- A breakdown of current charges for material-on-hand, any price adjustment, fuel adjustment, and change order(s).
- An updated project schedule (when a schedule is contractually required) showing the items completed during the pay period.

The LPA must also submit:

- Documentation submitted by the contractor when he requested payment from the LPA;

However, upon agreement between the LPA and the project coordinator in lieu of copies of invoices paid by the LPA, a one-page summary of what documentation the LPA has on file may be used, provided that the LPA's Director of Finance, Accounting Manager, or local employee of similar position signs it. Where the LPA submits a one-page summary of documentation it has on file, it must also certify that such records are retained in accordance with state and federal (where federal funds are utilized) records retention requirements for future audit purposes.

When an invoice is presented for payment to VDOT, the local match should be noted and adequate records maintained to document the local contribution. The use of direct-charge, in-house, LPA staff time is allowed to count towards the LPA's obligation provided adequate documentation is submitted by the LPA which details such staff time and costs.

LPA personnel are responsible for effectively managing the projects they are administering or working on. It is imperative that the staff capture project detail information accurately. LPA's should include only those eligible federal expenses and non-participating items stipulated in the PAA when billing VDOT.

Progress billings will be numbered sequentially and submitted not more than once per month and not less than once every 90 days. A certified project level invoice with supporting documentation to VDOT must include:

- Supporting documentation with copies of invoices.
    - The VDOT project coordinator may allow a summary of expenses in lieu of copies of invoices. The LPA remains responsible for providing all necessary supporting documentation as needed for later audits.
    - If the invoice is for internal labor provided by LPA employees the invoice should include the following at a minimum:
        - Project ID (project number and UPC)
        - Period of Time Covered
        - Amount

Sample billing shown in Appendix 19-A: The Fund Summary Invoice Total is required. LPA must indicate "Final" on the final invoice, so that project close-out procedures with FHWA may begin. The final estimate and voucher should be examined and verified by a qualified independent reviewer or auditor and written documentation of the verification should be provided with the invoice for final payment to the department. The reviewer may be employed by the LPA but should not be affiliated with the project.

VDOT Responsibilities:

- *VDOT is responsible for making payment to the LPA within 30 days after the receipt of an acceptable invoice. After payment is made, VDOT shall have an additional 30 days to review the invoice and supporting documentation. If VDOT objects to any of the costs, it will advise the LPA and VDOT will make the adjustment on the next invoice. If no further invoices, VDOT will bill the LPA for the questionable costs.*
- *The amount may be reduced if a project does not have sufficient allocations as shown in the SSYP/SYIP.*

- *VDOT project coordinator will ensure the coding used on all transactions is accurate and directly relates to and/or supports the project they are seeking reimbursement. In addition, the project coordinator must also ensure all federally related expenditures are coded with the appropriate participating and non-participating activity codes in accordance with federal regulations.*
- *VDOT project coordinator will ensure expenditures are appropriate for using federal and/or state funds. Cost must be deemed necessary, reasonable, consistent treatment, and adequately documented. Direct costs to the project are generally allowable, such as materials, employees, use of equipment, consultants, and contractors.*
- *The project coordinator will forward the correct invoice to the District Accounting office for processing and payment.*
- *If federal funds are involved, VDOT will bill FHWA to recoup the cash paid to the local agency.*

19.4.LOCAL PERCENTAGE

For projects utilizing federal funds, a local match may be required from the LPA. Under most circumstances the match must be made from local funds. The local match percentage varies between programs, but in most cases they are as follow:

- Urban Programs, 2 percent of the project cost, or as defined by agreement
- Enhancement projects or federal aid Secondary Construction Program projects in Arlington and Henrico County, 20 percent of the project cost.
- Other programs may also have match requirements.

The LPA should always consult with the project coordinator to determine what, if any, local match may be required. When an invoice is presented for payment to VDOT, this cost to the locality should be noted and adequate records maintained to document this.

The local match can be provided in cash or in kind match, based on program guidelines (i.e. Urban 2 percent is cash only). In Kind match is further discussed in 19.4.1. The use of direct-charge, in-house, locality staff time may be allowed to count towards the locality's obligation.

For state-funded projects financed by programs requiring a local match, such as revenue sharing, the various Access programs (in certain circumstances), and Urban Construction Program, the LPA shall provide documentation of total project cost while only billing VDOT for VDOT's portion of the eligible costs.

19.4.1 In Kind Match

In-kind match can be a bit more complicated than cash match, because there may be several sources of match becoming available at different times, and there are frequent requests to use ineligible match sources. ***The first rule of in-kind match is that any contribution put towards match, must otherwise be eligible for reimbursement through the program, and that the costs must have already been incurred.***

- **Volunteer Labor or Donated Goods and Services:** Contributions of donated goods or services, including volunteer labor, can be used on projects to reduce the locality's share of the project cost and to meet the program's local match requirement. Note however, that any contribution put towards match, must otherwise be eligible for reimbursement through the program.

  The value of volunteer or donated in-kind labor is calculated by actual rates (if locality staff or professional services are donated), or by an established rate for volunteers. Acceptable rates for volunteers depend on the type of work performed, and VDOT generally accepts what other state and federal agencies accept. Supporting documentation should include time records of volunteer work along with the applicable rates and calculation of in-kind match value. In the case of *pro bono* work donated by professionals (lawyers, engineers, archaeologists, etc.), a letter indicating the value of the services performed and that it is being

donated to the project will suffice. Any donated services must be directly related to the project completion.

- **Donated Right of Way**: Private contributions of donated right of way can also be used to meet the match requirement. Note that match based on donated right of way is limited to that which is specifically needed for use on the project, and at a value that is approved by VDOT R/W staff. For example: if 10 acres of land is donated, but only seven acres is needed for the project, match applied to the project is limited to the value of the seven acres.

  The value of donated right of way is based on the appraisal or tax assessment at the time of donation. Another option for parcels or easements valued at less than $10,000 is for the LPA to estimate the value using VDOT's Basic Acquisition Report (BAR). Although VDOT will not perform the BAR analysis on behalf of the LPA, District Right of Way staff can be consulted for technical assistance on using the BAR. The BAR analysis must be performed by a real estate professional, such as the local tax assessor.

19.4.2 In-Kind Contribution

Project expenditure processing (information for VDOT project coordinator)

- Used for locally administered projects
- Used to reflect the total participating cost of the project, not just the portion reimbursed to the LPA. The deferral billing percentage is applied to the total cost to compute the amount to bill FHWA.

For locally administered projects, if there is a local match involved on the project that is federally funded, the amount of the local match needs to be shown on the coding distribution on the reimbursement voucher to the LPA as in-kind contribution.

Example: City of Roanoke

80 percent federal participation

20 percent local participation

0 percent state participation

Reimbursement to Roanoke is 80 percent of the cost

Remaining 20 percent should be coded to account code 98900 with the same coding as the 80 percent reimbursement

On the federal bill, billing program will take 80 percent of the total amount and bill FHWA.

The 98900 account code is set up to net itself out for expenditure reporting purposes. Its purpose is to provide a charge for federal billing.

If there was state portion on a locally administered project, the state portion would also be reimbursed to the LPA in the payment.

19.5.RECOVERY OF VDOT COSTS

It is recognized that VDOT will have various costs associated with the processing of locally administered projects. VDOT will provide an estimate of such costs to the LPA. For routine activities such as plan reviews, environmental coordination, or civil rights compliance review, a fee may be charged to the project. The project administration agreement will provide guidance on how such costs are to be handled for a specific project.

VDOT may agree to provide specific project services for which considerable manpower and financial resources are needed, such as: preparation of environmental documentation, purchasing right-of-way, etc. In these instances, the PAA will detail how costs shall be charged and will be detailed in a project services agreement appendix.

19.6.NON-COMPLETION OF PROJECTS

In those cases where a LPA begins a project and then subsequently cancels it, state law requires that, in some cases, the LPA be responsible for reimbursing the net amount of all funds expended for planning, engineering, right-of–way acquisition, utility relocation, demolition, relocation, and construction to the date of cancellation. If the LPA and VDOT agree that a project should be cancelled due to changed conditions or circumstances beyond the control of the LPA, the payback requirement may be waived. It is important that a LPA receive a determination regarding payback before canceling a project.

For state-funded only projects, even though the law specifically states that the CTB is to be reimbursed, the spirit of the law is to prevent a LPA from starting and then stopping projects and thus using highway construction funds without addressing a transportation need. The law has provisions for the CTB to forgive this obligation under extenuating circumstances. It is important that a LPA receive a determination regarding payback before canceling a project.

19.7. RECORD REVIEW

A random review may be conducted of basic construction and project records, to verify compliance with applicable federal and state laws and regulations and any requirements within the standard agreement and/or these guidelines. Project records must be retained for no less than three (3) years following FHWA and/or VDOT acceptance of the final voucher, and the municipality shall make such records available to VDOT upon request.

Records that are to be retained also include the following:

Area / Phase	Record Requirement
Project Initiation and Authorization	Records as required in Chapter 8, such as • Documentation of project inclusion in the SYIP, SSYIP, MPO-TIP, STIP and/or the locality's urban priorities. • Any authorization and/or compliance documentation of advance construction (AC) on federal projects. • Any authorization and/or compliance documentation for the use of special funding.
Project Administration and Agreements	See Appendix 10-A
Consultant Procurement	Records as required in Chapter 11, such as • Documentation supporting completed activities from Appendix 11-A (procurement of federal aid professional services contracts) • Documentation supporting procurements performed as non-professional services or professional services under the VPPA. • Documentation supporting procurements performed under a local professional services contract procurement processes developed pursuant to Code of Virginia 2.2.4301 and in compliance with VPPA.
Project Scoping	Records as required in Section 12.1, such as • Documentation supporting activities in the table at Section 12.1.4 • Consideration of Bicycle and Pedestrian Accommodations. • Results of the SERP.
Plan Design	Records as required in Section 12.2, such as • Documentation supporting compliance with VDOT design

	standards when such compliance is not explicit in the project. • Documentation supporting design waivers or exceptions from VDOT standards or from external requirements such as the ADA.
Budget Schedule and Estimates	Records as required in Section 12.3 such as • Documentation supporting activities in the table at Section 12.3.5.
Public Involvement	Records as required in Section 12.4 such as • Documentation supporting activities in the table at Section 12.4.10.
Plan and Approval Submittals	Records as required in Section 12.5 such as • Documentation supporting activities in the table at Section 12.5.7. • Documentation supporting Plan Title Sheet requirements when such compliance is not explicit in the project plans.
Advertisement/Award/PS&E	Records as required in Section 12.6 such as • Documentation supporting activities in the table at Section 12.6.11. • Bid Proposals (including required forms, and documentation detailed within Section 12.6.4 and, if applicable, Appendix 12.6-A of Chapter 12. • Submittal Package, including certifications, forms and other documentation required in Section 12.6.7. • Documentation supporting compliance with the Bid Opening and Award procedures in 12.6.9.1 and 12.6.9.2. • Documentation of VDOT approvals as listed in Section 12.6.9.3.

Construction Administration	Records as required in Section 13.1 such as • Documentation supporting activities in the table at Appendix 13-A. • Construction contract including applicable permits, bonds and special provisions. • Source documentation supporting data entered into PCES or Dashboard. • Minutes from formal meetings with the contractor and/or VDOT management such as preconstruction meetings, partnering or progress meetings, etc. • Organizational charts (or equivalent contact information) and qualifications for the locality's construction administration team, including the project inspection team/contractor. • Required certifications for individual project inspectors. • Documentation of sufficient project inspection supporting the construction contractor's compliance with the Road and Bridge Specifications; the VDOT Construction Manual; any special provisions of the contract as discussed in Section 13.1.5, Appendices 13.1-D and 13.1.E; and other specific inspection sections of this manual. (This primarily includes inspection of contractor work but also includes assuring the contractor's civil rights compliance, workzone safety compliance and environmental compliance.) • Documentation and approval of change orders or design modifications occurring during the construction phase as defined in Section 13.1.5.5. • Documentation supporting

	reimbursement request as defined in Section 13.1.5.6.
Materials Quality Assurance	Records as required in Section 13.2 such as • Documentation as defined in Appendix 13.2-B.
Change Orders	Records as required in Section 13.3 such as • Contract provision defining the LPA change order process as required in Section 13.3.1. • Prior approval by the VDOT ACE and FHWA as applicable within Chapter 13 or FHWA requirement. • Documentation of verbal notification for change orders to address emergency work as discussed in Section 13.3.3. • Final approved change orders. • Analysis supporting pricing and cost estimates of the change order. • Documentation of costs under Force Account type change orders as described in Section 13.3.7.
Claims	Records as required in Section 13.4 such as • The LPA claims process as approved by VDOT. • The construction contractor's "notice of intent" to file a claim, as discussed in Section 13.4.7. • Copies of the actual claim notification from the construction contractor. • Documentation supporting a progressive administrative review and/or analysis of the claim beginning at the project level as discussed in Section 13.4.3 and 13.4.8. • Documentation of efforts by the LPA to mitigate the claim. • Documentation from VDOT or FHWA stating participation or non-participation in the payment of the claim.

	• Documentation supporting settlement of the claim by the authorized LPA official, including payment, if applicable.
Final Acceptance	Records as required in Section 14.1 such as • Documentation supporting activities in the table at Section 14.1.5. • Final materials certification records. • Documentation supporting the semi-final payment. (The payment made at time of project acceptance but prior to final records review.)
Final Invoicing	Records as required in Section 14.2 such as • Documentation supporting activities in the table at Section 14.2.4. • Documentation supporting the reconciliation of project records and any adjustments for final unit quantities. (Commonly referred to as finals review) • Documentation required in Section 14.2.3 for supporting the final voucher.
Street Acceptance	Records as required in Section 14.3 such as • Documentation supporting activities in the table at Section 14.5.2.
Environmental Requirements	Records as required in Chapter 15 such as • Documentation listed in Appendix 15.1-B. • Documentation as provided for in Section 15.2.6.
Right of Way	Records as required in Chapter 16 such as • Documentation as provided for in the table at Section 16.12. • Documentation supporting activities listed in Appendix 16-C. • Documentation supporting federal

	compliance and avoidance of conflict of interest as required in Section 16.3. • Files supporting right of entry, environmental reviews, appraisals, offers, negotiations, counter-offers, relocations and purchase/condemnation for individual parcels. (including any VDOT specific forms such as an RW-24.) • Qualifications and certifications of appraisers and negotiators, including any right of way contractors/consultants performing these functions. • Documentation supporting any property management activities. • Documentation supporting changes to “limited access” as discussed in Section 16.9. • Documentation for acquisitions meeting special circumstances, such as advance acquisitions, uneconomic remnants, functional replacements or exchanges as described in Section 16.10.1.
Civil Rights and DBE	Records as required in Chapter 17 such as • Documentation supporting activities listed in Section 17.1.3 "Tasks, Submittals" table. • Documentation as listed or supporting activities as listed in Appendices 17-A, 17-B and 17-C.
Structure and Bridge	Records as required in Chapter 18 such as • Documentation supporting activities listed the table at Section 18.4. • Any design waivers. • Documentation supporting change orders (field revisions to the bridge plans after contract is awarded). • Documentation supporting the preparation and submittal to VDOT

	of "as built" plans discussed in Appendix 18-A.
Financial Management / Reimbursement	Records as required in Chapter 19 such as • Project Administration Agreement with VDOT. • Authorization of Federal Funds. • Detail estimate of Federal Participating Expenditures. • Monthly/Quarterly Progress Billings including supporting documentation required in Section 19.3. (In cases where the VDOT Project Coordinator does not require invoices to be submitted, such invoices are still subject to review by VDOT Internal Audit upon their request.) • Documentation supporting the computation of matching funds, including in-kind contributions, and supporting that the locality actually incurred the cost as defined in Section 19.4. (note that this number is out of order and is identical at this time to the audit provision.) • Documentation related to VDOT cost recovery for services provided to the locality as defined in Section 19.5. • Documentation of repayment or waiver of repayment for cancelled projects as defined in Section 19.6.
Alternate Project Delivery	TBD after development of section.

19.8.COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR)

As a condition of receiving federal and state funds, the locality is required to conduct a yearly independent audit of its expenditures. As part of this audit, the auditors must certify that the funds under this program have been expended in accordance with applicable federal and state laws and regulations. This is similar to the statement required for certifying fiscal expenditures under VDOT's program.

VDOT is a pass-through entity of federal awards, meaning it is a non-federal entity that provides federal awards to sub-recipients to carry out federal programs. The Virginia Localities, Municipalities, Metropolitan Planning Organizations (MPOs), and Planning District Commissions (PDCs) are sub-recipients of federal awards, meaning they are non-federal entities that spend federal awards received through VDOT to carry out a federal program, but do not include an individual that is a beneficiary of such a program.

All sub-recipients must comply with the requirements of OMB Circular A-133 Subpart C – Auditees, Section 300, Auditee Responsibilities (e). The auditee shall ensure that the single audits required are properly performed and submitted within sixty (60) days of the audit being completed to the External and Construction Audit Division (ECAD) of VDOT. The auditee will provide access to any relevant records and financial statements as necessary to ensure such compliance. This requirement is to be followed by all localities receiving more than $500,000 in federal assistance.

Within 150 days of the audit being received by ECAD they will:

- Review the single audits to ensure that sub-recipients expending $500,000 or more in Federal awards during the sub-recipient's fiscal year have met the audit requirements of OMB Circular A-133, Subpart B – Audits, Section 200.

- Submit a written report to the Local Assistance Director (LAD), detailing any sub-recipient audit findings identified in the Schedule of Findings and Questioned Costs related to VDOT pass-through Federal awards.

As provided in OMB Circular A-133 Subpart D – Federal Agencies and Pass-Through Entities Responsibilities, Section 405, Management Decision (c), the LAD shall be responsible for:

- Notifying the sub-recipient of the audit findings that relate to the federal awards and requesting from the sub-recipient certification that appropriate and timely corrective action has been taken.
- Notifying the Fiscal Division of VDOT of the audit findings that relate to the federal awards for Fiscal Division's determination of whether the sub-recipient audit findings necessitate adjustment of VDOT's own financial records.

19.9. KEY SUBMITTALS/REQUIREMENTS

Task/Submittal/File Documentation	***LPA Responsibility***	***VDOT Responsibility***	***Submittal Timing/Recordkeeping Requirements***
Invoices	Submit with proper documentation and certifications.	Review and pay within 30 days	LPA must submit within 90 days of eligible expenses
CAFR audit	Must submit for projects over $500,000	Send to ECAD for review	ECAD will review within 150 days.

19.10. REGULATORY REQUIREMENTS

49 CFR Part 18 – Common Rule	§15.2-2511 of the Code Virginia
OMB Circular A-87 (Cost Principles for State and Local Governments)	23 CFR 630
Sections 33.1-44 and 33.1-70.01 of the Code of Virginia	

19.11. MISCELLANEOUS REFERENCES

CAPP Manual (Commonwealth Accounting Policies and Procedures Manual)
http://www.whitehouse.gov/omb/circulars_a087_2004/
http://www.doa.virginia.gov/Admin_Services/CAPP/CAPP_Topics/60108.pdf
www.vdot.virginia.gov

Appendix 19-A

Sample Invoice

SAMPLE LIFE TO DATE PROJECT SUMMARY SCHEDULE
REQUEST FOR FEDERAL REIMBURSEMENT

Attachment A (Revised 04/09/08)
DRAFT Life to Date Project Summary Schedule - Request to VDOT for Federal Reimbursement

City Name	**Hampton**	**Invoice Number**	**121314**
Project ID/UPC#	**AAAAA/UPC 60104**	**Invoice Date**	**11/28/2005**
Project Description	**Metropolis Boulevard**	**Invoice Amount**	**$ 12,000.00**
Federal Project ID#	**5401538**	**Billing Period**	**10/1-10/31/2005**

Request Number	Invoice Number	Invoice Date	Invoice Amount	Adjustment Date	Adjustment Amount	Project to Date Request for Reimbursement	Project to Date Collected	Balance Outstanding	Comments
1	1234	07/31/2004	$ 10,000.00		$ -	$ 10,000.00	$ 10,000.00	$ -	
2	5678	08/30/2004	$ 5,300.00		$ -	$ 15,300.00	$ 15,300.00	$ -	
3	91011	10/30/2004	$ 7,000.00	09/22/2004	$ (1,800.00)	$ 20,500.00	$ 20,500.00	$ -	Adjustment was made by VDOT due to tranposition error on invoice 5678 (invoice amount shold have been $3,500 instead of $5,300
4	121314	11/28/2004	$ 12,000.00		$ -	$ 32,500.00	$ 20,500.00	$ 12,000.00	

	Funding Summary Invoice Total				Funding Summary Project Life to Date Total			
Phase	**Total Federal Dollars Requested**	**State Dollars Applied**	**Local Match Applied**	**Total Project Expenditures**	**Total Federal Dollars Requested**	**State Dollars Applied**	**Local Match Applied**	**Total Project Expenditures**
Pre. Eng					$ 10,000.00	$ 2,250.00	$ 250.00	$ 12,500.00
Right of Way					$ 3,500.00	$ 787.50	$ 87.50	$ 4,375.00
Construction	$ 12,000.00	$ 2,700.00	$ 300.00	$ 15,000.00	$ 19,000.00	$ 4,275.00	$ 475.00	$ 53,750.00
Total	$ 12,000.00	$ 2,700.00	$ 300.00	$ 15,000.00	$ 32,500.00	$ 7,312.50	$ 812.50	$ 70,625.00

*This scenario assumes all reimbursements requested of VDOT are eligible federally participating expenses and the Federal participation rate is equal to 80% on all phases of work and a 2% local match is required on this project

Certification

I certify that the above invoiced amounts are correctly calculated, the items being requested for payment have been used or installed on the project, and the costs are allowable per state and federal regulations. Documentation to support the invoiced amounts is attached.

_____
Director of Finance

Appendix 19–B

Eligible expenses for federal aid

Classifications of work programmed with FHWA and eligible for federal aid:

a. Preliminary Engineering.
The work of locating and designing, making surveys and maps, sinking test holes, making foundation investigations, preparing plans, specifications and estimates, centerline, right-of way plan preparation and other related preliminary work and incidental construction staking, to the extent such staking is necessary to review construction plans, and related general engineering preparatory to the letting of a contract for construction.

The work may also include traffic counts, studies undertaken to determine traffic demands, holding of public hearings, preparation of right-of-way cost estimates, legal, and other costs incidental to the location and design of a highway project necessitating the acquisition of right of- way thereon up to but not including the appraisal of individual parcels for acquisition purposes.

These engineering costs are generally incurred prior to the date of construction PS&E approval or the date construction plan changes are completed prior to the beginning of construction. The date of contract award is the cutoff for charging to preliminary engineering.

During the construction phase of a project when a major change takes place that requires additional design or PE effort, the appropriate job can be reopened on a case-by-case basis after approval from FHWA. Also, any construction staking done in advance of the award should be charged to construction engineering, not PE.

b. Acquisition of Rights-of-Way.
The continuation of preparation of right-of-way plans; appraisal for parcel acquisition; review of appraisals; preparation for and trial of condemnation cases; management of properties acquired; furnishing of relocation advisory assistance; and other related labor expenses.
• Excess land (appraised value) including uneconomic remnants.
• Improvements (appraised salvage value).
• Right-of-way acquired after certification by the local agency that right-of-way necessary for a designated federal aid highway project has been acquired.
• Judgments in condemnation cases not appealed when the attorney's closing report indicates a basis for appeal. The

amount in excess of the review appraiser's determination of value is nonparticipating.
• Landowners:
• Attorneys' fees;
• Witness fees;
• Expert witness fees; or
• Similar costs to a landowner based on value of the services rendered to him which are paid by the local agency in connection with acquisition of rights-of-way, regardless of whether such costs are included in court judgments or court costs in litigated condemnation cases, e.g., statutory evaluation allowance.

c. Construction Engineering.
The work of supervising construction activities; the inspection of construction and related mechanical aspects (e.g., staking necessary to review construction plans together with those staking activities necessary for the local agency to control construction operations); testing of materials incorporated into construction, checking shop drawings and measurements for and preparations of progress and final estimates, and as-built drawings.

Construction engineering costs are generally incurred only after approval of the PS&E, a contract number is issued, and also incurred prior to:
• Completion date of the final contract pay estimate and its submission to the contractor;
• The final date of charges for required material testing; or
• Completion date of the separation of contract cost by code type, location, etc., whichever is applicable to that portion of the construction engineering phase involved.

d. Highway Planning. The orderly and continuing assembly and analysis of information about highways, such as the history of highway development and their extent, dimensions and conditions, use, economic and social effects, costs, and future needs.

e. Research and Development. The search for more complete knowledge of the characteristics of the highway system and the translation of the results of research into practice.

f. Administrative Settlement Costs-Contract Claims. Services related to the review and defense of claims against federal aid projects.

g. Miscellaneous Functions. Costs incurred for other activities which are properly attributable to, and for the benefit of, federal aid projects but are not assignable to any of the previously defined functions.

h. Construction Costs for Other Than Contractor Payments.
• Royalty expenses for material furnished by the local agency that are used by the contractor.
• Temporary signs, traffic control labor, traffic control devices, and temporary illumination furnished by the local agency. The initial basic cost of traffic control devices purchased for use on the project is an authorized participating cost. When used items are furnished by the local agency, federal participation will not be requested.
• Striping and pavement marking work performed by local forces.
• Second stage fertilizing by local forces. Application of second-stage seeding and fertilizer, after other work on the project has been completed and the contractor has been released from the contract, is eligible for federal participation. All costs for the fertilizer and the application by local forces are carried as below the line expense on the preliminary estimate and will be fully eligible for the appropriate matching federal funds.

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